



Sen. Debbie DeFrancesco Halvorson

Filed: 3/28/2006

09400SB1143sam001

LRB094 04837 DRH 57755 a

1 AMENDMENT TO SENATE BILL 1143

2 AMENDMENT NO. _____. Amend Senate Bill 1143 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 6-103, 6-208, 6-514, and 11-501 and by adding
6 Section 11-501.9 as follows:

7 (625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

8 Sec. 6-103. What persons shall not be licensed as drivers
9 or granted permits. The Secretary of State shall not issue,
10 renew, or allow the retention of any driver's license nor issue
11 any permit under this Code:

12 1. To any person, as a driver, who is under the age of
13 18 years except as provided in Section 6-107, and except
14 that an instruction permit may be issued under Section
15 6-107.1 to a child who is not less than 15 years of age if
16 the child is enrolled in an approved driver education
17 course as defined in Section 1-103 of this Code and
18 requires an instruction permit to participate therein,
19 except that an instruction permit may be issued under the
20 provisions of Section 6-107.1 to a child who is 17 years
21 and 9 months of age without the child having enrolled in an
22 approved driver education course and except that an
23 instruction permit may be issued to a child who is at least
24 15 years and 6 months of age, is enrolled in school, meets

1 the educational requirements of the Driver Education Act,
2 and has passed examinations the Secretary of State in his
3 or her discretion may prescribe;

4 2. To any person who is under the age of 18 as an
5 operator of a motorcycle other than a motor driven cycle
6 unless the person has, in addition to meeting the
7 provisions of Section 6-107 of this Code, successfully
8 completed a motorcycle training course approved by the
9 Illinois Department of Transportation and successfully
10 completes the required Secretary of State's motorcycle
11 driver's examination;

12 3. To any person, as a driver, whose driver's license
13 or permit has been suspended, during the suspension, nor to
14 any person whose driver's license or permit has been
15 revoked, except as provided in Sections 6-205, 6-206, and
16 6-208;

17 4. To any person, as a driver, who is a user of alcohol
18 or any other drug to a degree that renders the person
19 incapable of safely driving a motor vehicle;

20 5. To any person, as a driver, who has previously been
21 adjudged to be afflicted with or suffering from any mental
22 or physical disability or disease and who has not at the
23 time of application been restored to competency by the
24 methods provided by law;

25 6. To any person, as a driver, who is required by the
26 Secretary of State to submit an alcohol and drug evaluation
27 or take an examination provided for in this Code unless the
28 person has successfully passed the examination and
29 submitted any required evaluation;

30 7. To any person who is required under the provisions
31 of the laws of this State to deposit security or proof of
32 financial responsibility and who has not deposited the
33 security or proof;

34 8. To any person when the Secretary of State has good

1 cause to believe that the person by reason of physical or
2 mental disability would not be able to safely operate a
3 motor vehicle upon the highways, unless the person shall
4 furnish to the Secretary of State a verified written
5 statement, acceptable to the Secretary of State, from a
6 competent medical specialist to the effect that the
7 operation of a motor vehicle by the person would not be
8 inimical to the public safety;

9 9. To any person, as a driver, who is 69 years of age
10 or older, unless the person has successfully complied with
11 the provisions of Section 6-109;

12 10. To any person convicted, within 12 months of
13 application for a license, of any of the sexual offenses
14 enumerated in paragraph 2 of subsection (b) of Section
15 6-205;

16 11. To any person who is under the age of 21 years with
17 a classification prohibited in paragraph (b) of Section
18 6-104 and to any person who is under the age of 18 years
19 with a classification prohibited in paragraph (c) of
20 Section 6-104;

21 12. To any person who has been either convicted of or
22 adjudicated under the Juvenile Court Act of 1987 based upon
23 a violation of the Cannabis Control Act, the Illinois
24 Controlled Substances Act, or the Methamphetamine Control
25 and Community Protection Act while that person was in
26 actual physical control of a motor vehicle. For purposes of
27 this Section, any person placed on probation under Section
28 10 of the Cannabis Control Act, Section 410 of the Illinois
29 Controlled Substances Act, or Section 70 of the
30 Methamphetamine Control and Community Protection Act shall
31 not be considered convicted. Any person found guilty of
32 this offense, while in actual physical control of a motor
33 vehicle, shall have an entry made in the court record by
34 the judge that this offense did occur while the person was

1 in actual physical control of a motor vehicle and order the
2 clerk of the court to report the violation to the Secretary
3 of State as such. The Secretary of State shall not issue a
4 new license or permit for a period of one year;

5 13. To any person who is under the age of 18 years and
6 who has committed the offense of operating a motor vehicle
7 without a valid license or permit in violation of Section
8 6-101;

9 14. To any person who is 90 days or more delinquent in
10 court ordered child support payments or has been
11 adjudicated in arrears in an amount equal to 90 days'
12 obligation or more and who has been found in contempt of
13 court for failure to pay the support, subject to the
14 requirements and procedures of Article VII of Chapter 7 of
15 the Illinois Vehicle Code;

16 15. To any person released from a term of imprisonment
17 for violating Section 9-3 of the Criminal Code of 1961 or a
18 similar provision of a law of another state relating to
19 reckless homicide or for violating Section 11-501.9
20 ~~subparagraph (F) of paragraph (1) of subsection (d) of~~
21 ~~Section 11-501~~ of this Code relating to homicide while
22 ~~aggravated~~ driving under the influence of alcohol, other
23 drug or drugs, intoxicating compound or compounds, or any
24 combination thereof, if the violation was the proximate
25 cause of a death, within 24 months of release from a term
26 of imprisonment;

27 16. To any person who, with intent to influence any act
28 related to the issuance of any driver's license or permit,
29 by an employee of the Secretary of State's Office, or the
30 owner or employee of any commercial driver training school
31 licensed by the Secretary of State, or any other individual
32 authorized by the laws of this State to give driving
33 instructions or administer all or part of a driver's
34 license examination, promises or tenders to that person any

1 property or personal advantage which that person is not
2 authorized by law to accept. Any persons promising or
3 tendering such property or personal advantage shall be
4 disqualified from holding any class of driver's license or
5 permit for 120 consecutive days. The Secretary of State
6 shall establish by rule the procedures for implementing
7 this period of disqualification and the procedures by which
8 persons so disqualified may obtain administrative review
9 of the decision to disqualify; or

10 17. To any person for whom the Secretary of State
11 cannot verify the accuracy of any information or
12 documentation submitted in application for a driver's
13 license.

14 The Secretary of State shall retain all conviction
15 information, if the information is required to be held
16 confidential under the Juvenile Court Act of 1987.

17 (Source: P.A. 93-174, eff. 1-1-04; 93-712, eff. 1-1-05; 93-783,
18 eff. 1-1-05; 93-788, eff. 1-1-05; 93-895, eff. 1-1-05; 94-556,
19 eff. 9-11-05.)

20 (625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

21 Sec. 6-208. Period of Suspension - Application After
22 Revocation.

23 (a) Except as otherwise provided by this Code or any other
24 law of this State, the Secretary of State shall not suspend a
25 driver's license, permit or privilege to drive a motor vehicle
26 on the highways for a period of more than one year.

27 (b) Any person whose license, permit or privilege to drive
28 a motor vehicle on the highways has been revoked shall not be
29 entitled to have such license, permit or privilege renewed or
30 restored. However, such person may, except as provided under
31 subsection (d) of Section 6-205, make application for a license
32 pursuant to Section 6-106 (i) if the revocation was for a cause
33 which has been removed or (ii) as provided in the following

1 subparagraphs:

2 1. Except as provided in subparagraphs 2, 3, and 4, the
3 person may make application for a license after the
4 expiration of one year from the effective date of the
5 revocation or, in the case of a violation of paragraph (b)
6 of Section 11-401 of this Code or a similar provision of a
7 local ordinance, after the expiration of 3 years from the
8 effective date of the revocation or, in the case of a
9 violation of Section 9-3 of the Criminal Code of 1961 or a
10 similar provision of a law of another state relating to the
11 offense of reckless homicide or a violation of Section
12 11-501.9 ~~subparagraph (F) of paragraph 1 of subsection (d)~~
13 ~~of Section 11-501~~ of this Code relating to homicide while
14 ~~aggravated~~ driving under the influence of alcohol, other
15 drug or drugs, intoxicating compound or compounds, or any
16 combination thereof, if the violation was the proximate
17 cause of a death, after the expiration of 2 years from the
18 effective date of the revocation or after the expiration of
19 24 months from the date of release from a period of
20 imprisonment as provided in Section 6-103 of this Code,
21 whichever is later.

22 2. If such person is convicted of committing a second
23 violation within a 20 year period of:

24 (A) Section 11-501 of this Code, or a similar
25 provision of a local ordinance; or

26 (B) Paragraph (b) of Section 11-401 of this Code,
27 or a similar provision of a local ordinance; or

28 (C) Section 9-3 of the Criminal Code of 1961, as
29 amended, relating to the offense of reckless homicide;
30 or

31 (D) any combination of the above offenses
32 committed at different instances;

33 then such person may not make application for a license
34 until after the expiration of 5 years from the effective

1 date of the most recent revocation. The 20 year period
2 shall be computed by using the dates the offenses were
3 committed and shall also include similar out-of-state
4 offenses.

5 3. However, except as provided in subparagraph 4, if
6 such person is convicted of committing a third, or
7 subsequent, violation or any combination of the above
8 offenses, including similar out-of-state offenses,
9 contained in subparagraph 2, then such person may not make
10 application for a license until after the expiration of 10
11 years from the effective date of the most recent
12 revocation.

13 4. The person may not make application for a license if
14 the person is convicted of committing a fourth or
15 subsequent violation of Section 11-501 of this Code or a
16 similar provision of a local ordinance, Section 11-401 of
17 this Code, Section 9-3 of the Criminal Code of 1961, or a
18 combination of these offenses or similar provisions of
19 local ordinances or similar out-of-state offenses.

20 Notwithstanding any other provision of this Code, all
21 persons referred to in this paragraph (b) may not have their
22 privileges restored until the Secretary receives payment of the
23 required reinstatement fee pursuant to subsection (b) of
24 Section 6-118.

25 In no event shall the Secretary issue such license unless
26 and until such person has had a hearing pursuant to this Code
27 and the appropriate administrative rules and the Secretary is
28 satisfied, after a review or investigation of such person, that
29 to grant the privilege of driving a motor vehicle on the
30 highways will not endanger the public safety or welfare.

31 (c) (Blank).

32 (Source: P.A. 92-343, eff. 1-1-02; 92-418, eff. 8-17-01;
33 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-712, eff.
34 1-1-05; 93-788, eff. 1-1-05; revised 10-14-04.)

1 (625 ILCS 5/6-514) (from Ch. 95 1/2, par. 6-514)

2 Sec. 6-514. Commercial Driver's License (CDL) -
3 Disqualifications.

4 (a) A person shall be disqualified from driving a
5 commercial motor vehicle for a period of not less than 12
6 months for the first violation of:

7 (1) Refusing to submit to or failure to complete a test
8 or tests to determine the driver's blood concentration of
9 alcohol, other drug, or both, while driving a commercial
10 motor vehicle or, if the driver is a CDL holder, while
11 driving a non-CMV; or

12 (2) Operating a commercial motor vehicle while the
13 alcohol concentration of the person's blood, breath or
14 urine is at least 0.04, or any amount of a drug, substance,
15 or compound in the person's blood or urine resulting from
16 the unlawful use or consumption of cannabis listed in the
17 Cannabis Control Act or a controlled substance listed in
18 the Illinois Controlled Substances Act as indicated by a
19 police officer's sworn report or other verified evidence;
20 or

21 (3) Conviction for a first violation of:

22 (i) Driving a commercial motor vehicle or, if the
23 driver is a CDL holder, driving a non-CMV while under
24 the influence of alcohol, or any other drug, or
25 combination of drugs to a degree which renders such
26 person incapable of safely driving; or

27 (ii) Knowingly and wilfully leaving the scene of an
28 accident while operating a commercial motor vehicle
29 or, if the driver is a CDL holder, while driving a
30 non-CMV; or

31 (iii) Driving a commercial motor vehicle or, if the
32 driver is a CDL holder, driving a non-CMV while
33 committing any felony; or

1 (iv) Driving a commercial motor vehicle if, as a
2 result of prior violations committed while operating a
3 commercial motor vehicle, the driver's CDL is revoked,
4 suspended, or cancelled or the driver is disqualified
5 from operating a commercial motor vehicle; or

6 (v) Causing a fatality through the negligent
7 operation of a commercial motor vehicle, including but
8 not limited to the crimes of reckless driving under
9 Section 9-3 of the Criminal Code of 1961 and homicide
10 while aggravated driving under the influence of
11 alcohol, other drug or drugs, intoxicating compound or
12 compounds, or any combination thereof under Section
13 11-501.9 ~~subdivision (d) (1) (F) of Section 11-501~~ of
14 this Code.

15 If any of the above violations or refusals occurred
16 while transporting hazardous material(s) required to be
17 placarded, the person shall be disqualified for a period of
18 not less than 3 years.

19 (b) A person is disqualified for life for a second
20 conviction of any of the offenses specified in paragraph (a),
21 or any combination of those offenses, arising from 2 or more
22 separate incidents.

23 (c) A person is disqualified from driving a commercial
24 motor vehicle for life if the person either (i) uses a
25 commercial motor vehicle in the commission of any felony
26 involving the manufacture, distribution, or dispensing of a
27 controlled substance, or possession with intent to
28 manufacture, distribute or dispense a controlled substance or
29 (ii) if the person is a CDL holder, uses a non-CMV in the
30 commission of a felony involving any of those activities.

31 (d) The Secretary of State may, when the United States
32 Secretary of Transportation so authorizes, issue regulations
33 in which a disqualification for life under paragraph (b) may be
34 reduced to a period of not less than 10 years. If a reinstated

1 driver is subsequently convicted of another disqualifying
2 offense, as specified in subsection (a) of this Section, he or
3 she shall be permanently disqualified for life and shall be
4 ineligible to again apply for a reduction of the lifetime
5 disqualification.

6 (e) A person is disqualified from driving a commercial
7 motor vehicle for a period of not less than 2 months if
8 convicted of 2 serious traffic violations, committed in a
9 commercial motor vehicle, arising from separate incidents,
10 occurring within a 3 year period. However, a person will be
11 disqualified from driving a commercial motor vehicle for a
12 period of not less than 4 months if convicted of 3 serious
13 traffic violations, committed in a commercial motor vehicle,
14 arising from separate incidents, occurring within a 3 year
15 period.

16 (e-1) A person is disqualified from driving a commercial
17 motor vehicle for a period of not less than 2 months if
18 convicted of 2 serious traffic violations committed in a
19 non-CMV while holding a CDL, arising from separate incidents,
20 occurring within a 3 year period, if the convictions would
21 result in the suspension or revocation of the CDL holder's
22 non-CMV privileges. A person shall be disqualified from driving
23 a commercial motor vehicle for a period of not less than 4
24 months, however, if he or she is convicted of 3 or more serious
25 traffic violations committed in a non-CMV while holding a CDL,
26 arising from separate incidents, occurring within a 3 year
27 period, if the convictions would result in the suspension or
28 revocation of the CDL holder's non-CMV privileges.

29 (f) Notwithstanding any other provision of this Code, any
30 driver disqualified from operating a commercial motor vehicle,
31 pursuant to this UCDLA, shall not be eligible for restoration
32 of commercial driving privileges during any such period of
33 disqualification.

34 (g) After suspending, revoking, or cancelling a commercial

1 driver's license, the Secretary of State must update the
2 driver's records to reflect such action within 10 days. After
3 suspending or revoking the driving privilege of any person who
4 has been issued a CDL or commercial driver instruction permit
5 from another jurisdiction, the Secretary shall originate
6 notification to such issuing jurisdiction within 10 days.

7 (h) The "disqualifications" referred to in this Section
8 shall not be imposed upon any commercial motor vehicle driver,
9 by the Secretary of State, unless the prohibited action(s)
10 occurred after March 31, 1992.

11 (i) A person is disqualified from driving a commercial
12 motor vehicle in accordance with the following:

13 (1) For 6 months upon a first conviction of paragraph

14 (2) of subsection (b) of Section 6-507 of this Code.

15 (2) For one year upon a second conviction of paragraph

16 (2) of subsection (b) of Section 6-507 of this Code within
17 a 10-year period.

18 (3) For 3 years upon a third or subsequent conviction
19 of paragraph (2) of subsection (b) of Section 6-507 of this
20 Code within a 10-year period.

21 (4) For one year upon a first conviction of paragraph
22 (3) of subsection (b) of Section 6-507 of this Code.

23 (5) For 3 years upon a second conviction of paragraph
24 (3) of subsection (b) of Section 6-507 of this Code within
25 a 10-year period.

26 (6) For 5 years upon a third or subsequent conviction
27 of paragraph (3) of subsection (b) of Section 6-507 of this
28 Code within a 10-year period.

29 (j) Disqualification for railroad-highway grade crossing
30 violation.

31 (1) General rule. A driver who is convicted of a
32 violation of a federal, State, or local law or regulation
33 pertaining to one of the following 6 offenses at a
34 railroad-highway grade crossing must be disqualified from

1 operating a commercial motor vehicle for the period of time
2 specified in paragraph (2) of this subsection (j) if the
3 offense was committed while operating a commercial motor
4 vehicle:

5 (i) For drivers who are not required to always
6 stop, failing to slow down and check that the tracks
7 are clear of an approaching train, as described in
8 subsection (a-5) of Section 11-1201 of this Code;

9 (ii) For drivers who are not required to always
10 stop, failing to stop before reaching the crossing, if
11 the tracks are not clear, as described in subsection
12 (a) of Section 11-1201 of this Code;

13 (iii) For drivers who are always required to stop,
14 failing to stop before driving onto the crossing, as
15 described in Section 11-1202 of this Code;

16 (iv) For all drivers, failing to have sufficient
17 space to drive completely through the crossing without
18 stopping, as described in subsection (b) of Section
19 11-1425 of this Code;

20 (v) For all drivers, failing to obey a traffic
21 control device or the directions of an enforcement
22 official at the crossing, as described in subdivision
23 (a)2 of Section 11-1201 of this Code;

24 (vi) For all drivers, failing to negotiate a
25 crossing because of insufficient undercarriage
26 clearance, as described in subsection (d-1) of Section
27 11-1201 of this Code.

28 (2) Duration of disqualification for railroad-highway
29 grade crossing violation.

30 (i) First violation. A driver must be disqualified
31 from operating a commercial motor vehicle for not less
32 than 60 days if the driver is convicted of a violation
33 described in paragraph (1) of this subsection (j) and,
34 in the three-year period preceding the conviction, the

1 driver had no convictions for a violation described in
2 paragraph (1) of this subsection (j).

3 (ii) Second violation. A driver must be
4 disqualified from operating a commercial motor vehicle
5 for not less than 120 days if the driver is convicted
6 of a violation described in paragraph (1) of this
7 subsection (j) and, in the three-year period preceding
8 the conviction, the driver had one other conviction for
9 a violation described in paragraph (1) of this
10 subsection (j) that was committed in a separate
11 incident.

12 (iii) Third or subsequent violation. A driver must
13 be disqualified from operating a commercial motor
14 vehicle for not less than one year if the driver is
15 convicted of a violation described in paragraph (1) of
16 this subsection (j) and, in the three-year period
17 preceding the conviction, the driver had 2 or more
18 other convictions for violations described in
19 paragraph (1) of this subsection (j) that were
20 committed in separate incidents.

21 (k) Upon notification of a disqualification of a driver's
22 commercial motor vehicle privileges imposed by the U.S.
23 Department of Transportation, Federal Motor Carrier Safety
24 Administration, in accordance with 49 C.F.R. 383.52, the
25 Secretary of State shall immediately record to the driving
26 record the notice of disqualification and confirm to the driver
27 the action that has been taken.

28 (Source: P.A. 94-307, eff. 9-30-05.)

29 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

30 (Text of Section from P.A. 93-1093)

31 Sec. 11-501. Driving while under the influence of alcohol,
32 other drug or drugs, intoxicating compound or compounds or any
33 combination thereof.

1 (a) A person shall not drive or be in actual physical
2 control of any vehicle within this State while:

3 (1) the alcohol concentration in the person's blood or
4 breath is 0.08 or more based on the definition of blood and
5 breath units in Section 11-501.2;

6 (2) under the influence of alcohol;

7 (3) under the influence of any intoxicating compound or
8 combination of intoxicating compounds to a degree that
9 renders the person incapable of driving safely;

10 (4) under the influence of any other drug or
11 combination of drugs to a degree that renders the person
12 incapable of safely driving;

13 (5) under the combined influence of alcohol, other drug
14 or drugs, or intoxicating compound or compounds to a degree
15 that renders the person incapable of safely driving; or

16 (6) there is any amount of a drug, substance, or
17 compound in the person's breath, blood, or urine resulting
18 from the unlawful use or consumption of cannabis listed in
19 the Cannabis Control Act, a controlled substance listed in
20 the Illinois Controlled Substances Act, or an intoxicating
21 compound listed in the Use of Intoxicating Compounds Act.

22 (b) The fact that any person charged with violating this
23 Section is or has been legally entitled to use alcohol, other
24 drug or drugs, or intoxicating compound or compounds, or any
25 combination thereof, shall not constitute a defense against any
26 charge of violating this Section.

27 (b-1) With regard to penalties imposed under this Section:

28 (1) Any reference to a prior violation of subsection
29 (a) or a similar provision includes any violation of a
30 provision of a local ordinance or a provision of a law of
31 another state that is similar to a violation of subsection
32 (a) of this Section.

33 (2) Any penalty imposed for driving with a license that
34 has been revoked for a previous violation of subsection (a)

1 of this Section shall be in addition to the penalty imposed
2 for any subsequent violation of subsection (a).

3 (b-2) Except as otherwise provided in this Section, any
4 person convicted of violating subsection (a) of this Section is
5 guilty of a Class A misdemeanor.

6 (b-3) In addition to any other criminal or administrative
7 sanction for any second conviction of violating subsection (a)
8 or a similar provision committed within 5 years of a previous
9 violation of subsection (a) or a similar provision, the
10 defendant shall be sentenced to a mandatory minimum of 5 days
11 of imprisonment or assigned a mandatory minimum of 240 hours of
12 community service as may be determined by the court.

13 (b-4) In the case of a third or subsequent violation
14 committed within 5 years of a previous violation of subsection
15 (a) or a similar provision, in addition to any other criminal
16 or administrative sanction, a mandatory minimum term of either
17 10 days of imprisonment or 480 hours of community service shall
18 be imposed.

19 (b-5) The imprisonment or assignment of community service
20 under subsections (b-3) and (b-4) shall not be subject to
21 suspension, nor shall the person be eligible for a reduced
22 sentence.

23 (c) (Blank).

24 (c-1) (1) A person who violates subsection (a) during a
25 period in which his or her driving privileges are revoked
26 or suspended, where the revocation or suspension was for a
27 violation of subsection (a), Section 11-501.1, paragraph
28 (b) of Section 11-401, or for reckless homicide as defined
29 in Section 9-3 of the Criminal Code of 1961 is guilty of a
30 Class 4 felony.

31 (2) A person who violates subsection (a) a third time,
32 if the third violation occurs during a period in which his
33 or her driving privileges are revoked or suspended where
34 the revocation or suspension was for a violation of

1 subsection (a), Section 11-501.1, paragraph (b) of Section
2 11-401, or for reckless homicide as defined in Section 9-3
3 of the Criminal Code of 1961, is guilty of a Class 3
4 felony; and if the person receives a term of probation or
5 conditional discharge, he or she shall be required to serve
6 a mandatory minimum of 10 days of imprisonment or shall be
7 assigned a mandatory minimum of 480 hours of community
8 service, as may be determined by the court, as a condition
9 of the probation or conditional discharge. This mandatory
10 minimum term of imprisonment or assignment of community
11 service shall not be suspended or reduced by the court.

12 (2.2) A person who violates subsection (a), if the
13 violation occurs during a period in which his or her
14 driving privileges are revoked or suspended where the
15 revocation or suspension was for a violation of subsection
16 (a) or Section 11-501.1, shall also be sentenced to an
17 additional mandatory minimum term of 30 consecutive days of
18 imprisonment, 40 days of 24-hour periodic imprisonment, or
19 720 hours of community service, as may be determined by the
20 court. This mandatory term of imprisonment or assignment of
21 community service shall not be suspended or reduced by the
22 court.

23 (3) A person who violates subsection (a) a fourth or
24 subsequent time, if the fourth or subsequent violation
25 occurs during a period in which his or her driving
26 privileges are revoked or suspended where the revocation or
27 suspension was for a violation of subsection (a), Section
28 11-501.1, paragraph (b) of Section 11-401, or for reckless
29 homicide as defined in Section 9-3 of the Criminal Code of
30 1961, is guilty of a Class 2 felony and is not eligible for
31 a sentence of probation or conditional discharge.

32 (c-2) (Blank).

33 (c-3) (Blank).

34 (c-4) (Blank).

1 (c-5)(1) A person who violates subsection (a), if the
2 person was transporting a person under the age of 16 at the
3 time of the violation, is subject to an additional
4 mandatory minimum fine of \$1,000, an additional mandatory
5 minimum 140 hours of community service, which shall include
6 40 hours of community service in a program benefiting
7 children, and an additional 2 days of imprisonment. The
8 imprisonment or assignment of community service under this
9 subdivision (c-5)(1) is not subject to suspension, nor is
10 the person eligible for a reduced sentence.

11 (2) Except as provided in subdivisions (c-5)(3) and
12 (c-5)(4) a person who violates subsection (a) a second
13 time, if at the time of the second violation the person was
14 transporting a person under the age of 16, is subject to an
15 additional 10 days of imprisonment, an additional
16 mandatory minimum fine of \$1,000, and an additional
17 mandatory minimum 140 hours of community service, which
18 shall include 40 hours of community service in a program
19 benefiting children. The imprisonment or assignment of
20 community service under this subdivision (c-5)(2) is not
21 subject to suspension, nor is the person eligible for a
22 reduced sentence.

23 (3) Except as provided in subdivision (c-5)(4), any
24 person convicted of violating subdivision (c-5)(2) or a
25 similar provision within 10 years of a previous violation
26 of subsection (a) or a similar provision shall receive, in
27 addition to any other penalty imposed, a mandatory minimum
28 12 days imprisonment, an additional 40 hours of mandatory
29 community service in a program benefiting children, and a
30 mandatory minimum fine of \$1,750. The imprisonment or
31 assignment of community service under this subdivision
32 (c-5)(3) is not subject to suspension, nor is the person
33 eligible for a reduced sentence.

34 (4) Any person convicted of violating subdivision

1 (c-5)(2) or a similar provision within 5 years of a
2 previous violation of subsection (a) or a similar provision
3 shall receive, in addition to any other penalty imposed, an
4 additional 80 hours of mandatory community service in a
5 program benefiting children, an additional mandatory
6 minimum 12 days of imprisonment, and a mandatory minimum
7 fine of \$1,750. The imprisonment or assignment of community
8 service under this subdivision (c-5)(4) is not subject to
9 suspension, nor is the person eligible for a reduced
10 sentence.

11 (5) Any person convicted a third time for violating
12 subsection (a) or a similar provision, if at the time of
13 the third violation the person was transporting a person
14 under the age of 16, is guilty of a Class 4 felony and
15 shall receive, in addition to any other penalty imposed, an
16 additional mandatory fine of \$1,000, an additional
17 mandatory 140 hours of community service, which shall
18 include 40 hours in a program benefiting children, and a
19 mandatory minimum 30 days of imprisonment. The
20 imprisonment or assignment of community service under this
21 subdivision (c-5)(5) is not subject to suspension, nor is
22 the person eligible for a reduced sentence.

23 (6) Any person convicted of violating subdivision
24 (c-5)(5) or a similar provision a third time within 20
25 years of a previous violation of subsection (a) or a
26 similar provision is guilty of a Class 4 felony and shall
27 receive, in addition to any other penalty imposed, an
28 additional mandatory 40 hours of community service in a
29 program benefiting children, an additional mandatory fine
30 of \$3,000, and a mandatory minimum 120 days of
31 imprisonment. The imprisonment or assignment of community
32 service under this subdivision (c-5)(6) is not subject to
33 suspension, nor is the person eligible for a reduced
34 sentence.

1 (7) Any person convicted a fourth or subsequent time
2 for violating subsection (a) or a similar provision, if at
3 the time of the fourth or subsequent violation the person
4 was transporting a person under the age of 16, and if the
5 person's 3 prior violations of subsection (a) or a similar
6 provision occurred while transporting a person under the
7 age of 16 or while the alcohol concentration in his or her
8 blood, breath, or urine was 0.16 or more based on the
9 definition of blood, breath, or urine units in Section
10 11-501.2, is guilty of a Class 2 felony, is not eligible
11 for probation or conditional discharge, and is subject to a
12 minimum fine of \$3,000.

13 (c-6)(1) Any person convicted of a first violation of
14 subsection (a) or a similar provision, if the alcohol
15 concentration in his or her blood, breath, or urine was
16 0.16 or more based on the definition of blood, breath, or
17 urine units in Section 11-501.2, shall be subject, in
18 addition to any other penalty that may be imposed, to a
19 mandatory minimum of 100 hours of community service and a
20 mandatory minimum fine of \$500.

21 (2) Any person convicted of a second violation of
22 subsection (a) or a similar provision committed within 10
23 years of a previous violation of subsection (a) or a
24 similar provision, if at the time of the second violation
25 of subsection (a) or a similar provision the alcohol
26 concentration in his or her blood, breath, or urine was
27 0.16 or more based on the definition of blood, breath, or
28 urine units in Section 11-501.2, shall be subject, in
29 addition to any other penalty that may be imposed, to a
30 mandatory minimum of 2 days of imprisonment and a mandatory
31 minimum fine of \$1,250.

32 (3) Any person convicted of a third violation of
33 subsection (a) or a similar provision within 20 years of a
34 previous violation of subsection (a) or a similar

1 provision, if at the time of the third violation of
2 subsection (a) or a similar provision the alcohol
3 concentration in his or her blood, breath, or urine was
4 0.16 or more based on the definition of blood, breath, or
5 urine units in Section 11-501.2, is guilty of a Class 4
6 felony and shall be subject, in addition to any other
7 penalty that may be imposed, to a mandatory minimum of 90
8 days of imprisonment and a mandatory minimum fine of
9 \$2,500.

10 (4) Any person convicted of a fourth or subsequent
11 violation of subsection (a) or a similar provision, if at
12 the time of the fourth or subsequent violation the alcohol
13 concentration in his or her blood, breath, or urine was
14 0.16 or more based on the definition of blood, breath, or
15 urine units in Section 11-501.2, and if the person's 3
16 prior violations of subsection (a) or a similar provision
17 occurred while transporting a person under the age of 16 or
18 while the alcohol concentration in his or her blood,
19 breath, or urine was 0.16 or more based on the definition
20 of blood, breath, or urine units in Section 11-501.2, is
21 guilty of a Class 2 felony and is not eligible for a
22 sentence of probation or conditional discharge and is
23 subject to a minimum fine of \$2,500.

24 (d) (1) Every person convicted of committing a violation of
25 this Section shall be guilty of aggravated driving under
26 the influence of alcohol, other drug or drugs, or
27 intoxicating compound or compounds, or any combination
28 thereof if:

29 (A) the person committed a violation of subsection
30 (a) or a similar provision for the third or subsequent
31 time;

32 (B) the person committed a violation of subsection
33 (a) while driving a school bus with persons 18 years of
34 age or younger on board;

1 (C) the person in committing a violation of
2 subsection (a) was involved in a motor vehicle accident
3 that resulted in great bodily harm or permanent
4 disability or disfigurement to another, when the
5 violation was a proximate cause of the injuries;

6 (D) the person committed a violation of subsection
7 (a) for a second time and has been previously convicted
8 of violating Section 9-3 of the Criminal Code of 1961
9 or a similar provision of a law of another state
10 relating to reckless homicide in which the person was
11 determined to have been under the influence of alcohol,
12 other drug or drugs, or intoxicating compound or
13 compounds as an element of the offense or the person
14 has previously been convicted under subparagraph (C)
15 or subparagraph (F) of this paragraph (1); or

16 (E) the person, in committing a violation of
17 subsection (a) while driving at any speed in a school
18 speed zone at a time when a speed limit of 20 miles per
19 hour was in effect under subsection (a) of Section
20 11-605 of this Code, was involved in a motor vehicle
21 accident that resulted in bodily harm, other than great
22 bodily harm or permanent disability or disfigurement,
23 to another person, when the violation of subsection (a)
24 was a proximate cause of the bodily harm. ~~or~~

25 (F) (Blank). ~~the person, in committing a violation~~
26 ~~of subsection (a), was involved in a motor vehicle,~~
27 ~~snowmobile, all terrain vehicle, or watercraft~~
28 ~~accident that resulted in the death of another person,~~
29 ~~when the violation of subsection (a) was a proximate~~
30 ~~cause of the death.~~

31 (2) Except as provided in this paragraph (2), a person
32 convicted of aggravated driving under the influence of
33 alcohol, other drug or drugs, or intoxicating compound or
34 compounds, or any combination thereof is guilty of a Class

1 4 felony. For a violation of subparagraph (C) of paragraph
2 (1) of this subsection (d), the defendant, if sentenced to
3 a term of imprisonment, shall be sentenced to not less than
4 one year nor more than 12 years. ~~Aggravated driving under~~
5 ~~the influence of alcohol, other drug or drugs, or~~
6 ~~intoxicating compound or compounds, or any combination~~
7 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
8 ~~this subsection (d) is a Class 2 felony, for which the~~
9 ~~defendant, if sentenced to a term of imprisonment, shall be~~
10 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
11 ~~years and not more than 14 years if the violation resulted~~
12 ~~in the death of one person; or (B) a term of imprisonment~~
13 ~~of not less than 6 years and not more than 28 years if the~~
14 ~~violation resulted in the deaths of 2 or more persons.~~ For
15 any prosecution under this subsection (d), a certified copy
16 of the driving abstract of the defendant shall be admitted
17 as proof of any prior conviction. Any person sentenced
18 under this subsection (d) who receives a term of probation
19 or conditional discharge must serve a minimum term of
20 either 480 hours of community service or 10 days of
21 imprisonment as a condition of the probation or conditional
22 discharge. This mandatory minimum term of imprisonment or
23 assignment of community service may not be suspended or
24 reduced by the court.

25 (e) After a finding of guilt and prior to any final
26 sentencing, or an order for supervision, for an offense based
27 upon an arrest for a violation of this Section or a similar
28 provision of a local ordinance, individuals shall be required
29 to undergo a professional evaluation to determine if an
30 alcohol, drug, or intoxicating compound abuse problem exists
31 and the extent of the problem, and undergo the imposition of
32 treatment as appropriate. Programs conducting these
33 evaluations shall be licensed by the Department of Human
34 Services. The cost of any professional evaluation shall be paid

1 for by the individual required to undergo the professional
2 evaluation.

3 (e-1) Any person who is found guilty of or pleads guilty to
4 violating this Section, including any person receiving a
5 disposition of court supervision for violating this Section,
6 may be required by the Court to attend a victim impact panel
7 offered by, or under contract with, a County State's Attorney's
8 office, a probation and court services department, Mothers
9 Against Drunk Driving, or the Alliance Against Intoxicated
10 Motorists. All costs generated by the victim impact panel shall
11 be paid from fees collected from the offender or as may be
12 determined by the court.

13 (f) Every person found guilty of violating this Section,
14 whose operation of a motor vehicle while in violation of this
15 Section proximately caused any incident resulting in an
16 appropriate emergency response, shall be liable for the expense
17 of an emergency response as provided under Section 5-5-3 of the
18 Unified Code of Corrections.

19 (g) The Secretary of State shall revoke the driving
20 privileges of any person convicted under this Section or a
21 similar provision of a local ordinance.

22 (h) (Blank).

23 (i) The Secretary of State shall require the use of
24 ignition interlock devices on all vehicles owned by an
25 individual who has been convicted of a second or subsequent
26 offense of this Section or a similar provision of a local
27 ordinance. The Secretary shall establish by rule and regulation
28 the procedures for certification and use of the interlock
29 system.

30 (j) In addition to any other penalties and liabilities, a
31 person who is found guilty of or pleads guilty to violating
32 subsection (a), including any person placed on court
33 supervision for violating subsection (a), shall be fined \$500,
34 payable to the circuit clerk, who shall distribute the money as

1 follows: 20% to the law enforcement agency that made the arrest
2 and 80% shall be forwarded to the State Treasurer for deposit
3 into the General Revenue Fund. If the person has been
4 previously convicted of violating subsection (a) or a similar
5 provision of a local ordinance, the fine shall be \$1,000. In
6 the event that more than one agency is responsible for the
7 arrest, the amount payable to law enforcement agencies shall be
8 shared equally. Any moneys received by a law enforcement agency
9 under this subsection (j) shall be used to purchase law
10 enforcement equipment that will assist in the prevention of
11 alcohol related criminal violence throughout the State. This
12 shall include, but is not limited to, in-car video cameras,
13 radar and laser speed detection devices, and alcohol breath
14 testers. Any moneys received by the Department of State Police
15 under this subsection (j) shall be deposited into the State
16 Police DUI Fund and shall be used to purchase law enforcement
17 equipment that will assist in the prevention of alcohol related
18 criminal violence throughout the State.

19 (k) The Secretary of State Police DUI Fund is created as a
20 special fund in the State treasury. All moneys received by the
21 Secretary of State Police under subsection (j) of this Section
22 shall be deposited into the Secretary of State Police DUI Fund
23 and, subject to appropriation, shall be used to purchase law
24 enforcement equipment to assist in the prevention of alcohol
25 related criminal violence throughout the State.

26 (l) Whenever an individual is sentenced for an offense
27 based upon an arrest for a violation of subsection (a) or a
28 similar provision of a local ordinance, and the professional
29 evaluation recommends remedial or rehabilitative treatment or
30 education, neither the treatment nor the education shall be the
31 sole disposition and either or both may be imposed only in
32 conjunction with another disposition. The court shall monitor
33 compliance with any remedial education or treatment
34 recommendations contained in the professional evaluation.

1 Programs conducting alcohol or other drug evaluation or
2 remedial education must be licensed by the Department of Human
3 Services. If the individual is not a resident of Illinois,
4 however, the court may accept an alcohol or other drug
5 evaluation or remedial education program in the individual's
6 state of residence. Programs providing treatment must be
7 licensed under existing applicable alcoholism and drug
8 treatment licensure standards.

9 (m) In addition to any other fine or penalty required by
10 law, an individual convicted of a violation of subsection (a),
11 Section 5-7 of the Snowmobile Registration and Safety Act,
12 Section 5-16 of the Boat Registration and Safety Act, or a
13 similar provision, whose operation of a motor vehicle,
14 snowmobile, or watercraft while in violation of subsection (a),
15 Section 5-7 of the Snowmobile Registration and Safety Act,
16 Section 5-16 of the Boat Registration and Safety Act, or a
17 similar provision proximately caused an incident resulting in
18 an appropriate emergency response, shall be required to make
19 restitution to a public agency for the costs of that emergency
20 response. The restitution may not exceed \$1,000 per public
21 agency for each emergency response. As used in this subsection
22 (m), "emergency response" means any incident requiring a
23 response by a police officer, a firefighter carried on the
24 rolls of a regularly constituted fire department, or an
25 ambulance.

26 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
27 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
28 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
29 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,
30 eff. 1-1-05; 93-840, eff. 7-30-04; 93-1093, eff. 3-29-05.)

31 (Text of Section from P.A. 94-110)

32 Sec. 11-501. Driving while under the influence of alcohol,
33 other drug or drugs, intoxicating compound or compounds or any

1 combination thereof.

2 (a) A person shall not drive or be in actual physical
3 control of any vehicle within this State while:

4 (1) the alcohol concentration in the person's blood or
5 breath is 0.08 or more based on the definition of blood and
6 breath units in Section 11-501.2;

7 (2) under the influence of alcohol;

8 (3) under the influence of any intoxicating compound or
9 combination of intoxicating compounds to a degree that
10 renders the person incapable of driving safely;

11 (4) under the influence of any other drug or
12 combination of drugs to a degree that renders the person
13 incapable of safely driving;

14 (5) under the combined influence of alcohol, other drug
15 or drugs, or intoxicating compound or compounds to a degree
16 that renders the person incapable of safely driving; or

17 (6) there is any amount of a drug, substance, or
18 compound in the person's breath, blood, or urine resulting
19 from the unlawful use or consumption of cannabis listed in
20 the Cannabis Control Act, a controlled substance listed in
21 the Illinois Controlled Substances Act, or an intoxicating
22 compound listed in the Use of Intoxicating Compounds Act.

23 (b) The fact that any person charged with violating this
24 Section is or has been legally entitled to use alcohol, other
25 drug or drugs, or intoxicating compound or compounds, or any
26 combination thereof, shall not constitute a defense against any
27 charge of violating this Section.

28 (b-1) With regard to penalties imposed under this Section:

29 (1) Any reference to a prior violation of subsection
30 (a) or a similar provision includes any violation of a
31 provision of a local ordinance or a provision of a law of
32 another state that is similar to a violation of subsection
33 (a) of this Section.

34 (2) Any penalty imposed for driving with a license that

1 has been revoked for a previous violation of subsection (a)
2 of this Section shall be in addition to the penalty imposed
3 for any subsequent violation of subsection (a).

4 (b-2) Except as otherwise provided in this Section, any
5 person convicted of violating subsection (a) of this Section is
6 guilty of a Class A misdemeanor.

7 (b-3) In addition to any other criminal or administrative
8 sanction for any second conviction of violating subsection (a)
9 or a similar provision committed within 5 years of a previous
10 violation of subsection (a) or a similar provision, the
11 defendant shall be sentenced to a mandatory minimum of 5 days
12 of imprisonment or assigned a mandatory minimum of 240 hours of
13 community service as may be determined by the court.

14 (b-4) In the case of a third or subsequent violation
15 committed within 5 years of a previous violation of subsection
16 (a) or a similar provision, in addition to any other criminal
17 or administrative sanction, a mandatory minimum term of either
18 10 days of imprisonment or 480 hours of community service shall
19 be imposed.

20 (b-5) The imprisonment or assignment of community service
21 under subsections (b-3) and (b-4) shall not be subject to
22 suspension, nor shall the person be eligible for a reduced
23 sentence.

24 (c) (Blank).

25 (c-1) (1) A person who violates subsection (a) during a
26 period in which his or her driving privileges are revoked
27 or suspended, where the revocation or suspension was for a
28 violation of subsection (a), Section 11-501.1, paragraph
29 (b) of Section 11-401, or for reckless homicide as defined
30 in Section 9-3 of the Criminal Code of 1961 is guilty of a
31 Class 4 felony.

32 (2) A person who violates subsection (a) a third time,
33 if the third violation occurs during a period in which his
34 or her driving privileges are revoked or suspended where

1 the revocation or suspension was for a violation of
2 subsection (a), Section 11-501.1, paragraph (b) of Section
3 11-401, or for reckless homicide as defined in Section 9-3
4 of the Criminal Code of 1961, is guilty of a Class 3
5 felony; and if the person receives a term of probation or
6 conditional discharge, he or she shall be required to serve
7 a mandatory minimum of 10 days of imprisonment or shall be
8 assigned a mandatory minimum of 480 hours of community
9 service, as may be determined by the court, as a condition
10 of the probation or conditional discharge. This mandatory
11 minimum term of imprisonment or assignment of community
12 service shall not be suspended or reduced by the court.

13 (2.2) A person who violates subsection (a), if the
14 violation occurs during a period in which his or her
15 driving privileges are revoked or suspended where the
16 revocation or suspension was for a violation of subsection
17 (a) or Section 11-501.1, shall also be sentenced to an
18 additional mandatory minimum term of 30 consecutive days of
19 imprisonment, 40 days of 24-hour periodic imprisonment, or
20 720 hours of community service, as may be determined by the
21 court. This mandatory term of imprisonment or assignment of
22 community service shall not be suspended or reduced by the
23 court.

24 (3) A person who violates subsection (a) a fourth or
25 subsequent time, if the fourth or subsequent violation
26 occurs during a period in which his or her driving
27 privileges are revoked or suspended where the revocation or
28 suspension was for a violation of subsection (a), Section
29 11-501.1, paragraph (b) of Section 11-401, or for reckless
30 homicide as defined in Section 9-3 of the Criminal Code of
31 1961, is guilty of a Class 2 felony and is not eligible for
32 a sentence of probation or conditional discharge.

33 (c-2) (Blank).

34 (c-3) (Blank).

1 (c-4) (Blank).

2 (c-5) Except as provided in subsection (c-5.1), a person 21
3 years of age or older who violates subsection (a), if the
4 person was transporting a person under the age of 16 at the
5 time of the violation, is subject to 6 months of imprisonment,
6 an additional mandatory minimum fine of \$1,000, and 25 days of
7 community service in a program benefiting children. The
8 imprisonment or assignment of community service under this
9 subsection (c-5) is not subject to suspension, nor is the
10 person eligible for a reduced sentence.

11 (c-5.1) A person 21 years of age or older who is convicted
12 of violating subsection (a) of this Section a first time and
13 who in committing that violation was involved in a motor
14 vehicle accident that resulted in bodily harm to the child
15 under the age of 16 being transported by the person, if the
16 violation was the proximate cause of the injury, is guilty of a
17 Class 4 felony and is subject to one year of imprisonment, a
18 mandatory fine of \$2,500, and 25 days of community service in a
19 program benefiting children. The imprisonment or assignment to
20 community service under this subsection (c-5.1) shall not be
21 subject to suspension, nor shall the person be eligible for
22 probation in order to reduce the sentence or assignment.

23 (c-6) Except as provided in subsections (c-7) and (c-7.1),
24 a person 21 years of age or older who violates subsection (a) a
25 second time, if at the time of the second violation the person
26 was transporting a person under the age of 16, is subject to 6
27 months of imprisonment, an additional mandatory minimum fine of
28 \$1,000, and an additional mandatory minimum 140 hours of
29 community service, which shall include 40 hours of community
30 service in a program benefiting children. The imprisonment or
31 assignment of community service under this subsection (c-6) is
32 not subject to suspension, nor is the person eligible for a
33 reduced sentence.

34 (c-7) Except as provided in subsection (c-7.1), any person

1 21 years of age or older convicted of violating subsection
2 (c-6) or a similar provision within 10 years of a previous
3 violation of subsection (a) or a similar provision is guilty of
4 a Class 4 felony and, in addition to any other penalty imposed,
5 is subject to one year of imprisonment, 25 days of mandatory
6 community service in a program benefiting children, and a
7 mandatory fine of \$2,500. The imprisonment or assignment of
8 community service under this subsection (c-7) is not subject to
9 suspension, nor is the person eligible for a reduced sentence.

10 (c-7.1) A person 21 years of age or older who is convicted
11 of violating subsection (a) of this Section a second time
12 within 10 years and who in committing that violation was
13 involved in a motor vehicle accident that resulted in bodily
14 harm to the child under the age of 16 being transported, if the
15 violation was the proximate cause of the injury, is guilty of a
16 Class 4 felony and is subject to 18 months of imprisonment, a
17 mandatory fine of \$5,000, and 25 days of community service in a
18 program benefiting children. The imprisonment or assignment to
19 community service under this subsection (c-7.1) shall not be
20 subject to suspension, nor shall the person be eligible for
21 probation in order to reduce the sentence or assignment.

22 (c-8) (Blank).

23 (c-9) Any person 21 years of age or older convicted a third
24 time for violating subsection (a) or a similar provision, if at
25 the time of the third violation the person was transporting a
26 person under the age of 16, is guilty of a Class 4 felony and is
27 subject to 18 months of imprisonment, a mandatory fine of
28 \$2,500, and 25 days of community service in a program
29 benefiting children. The imprisonment or assignment of
30 community service under this subsection (c-9) is not subject to
31 suspension, nor is the person eligible for a reduced sentence.

32 (c-10) Any person 21 years of age or older convicted of
33 violating subsection (c-9) or a similar provision a third time
34 within 20 years of a previous violation of subsection (a) or a

1 similar provision is guilty of a Class 3 felony and, in
2 addition to any other penalty imposed, is subject to 3 years of
3 imprisonment, 25 days of community service in a program
4 benefiting children, and a mandatory fine of \$25,000. The
5 imprisonment or assignment of community service under this
6 subsection (c-10) is not subject to suspension, nor is the
7 person eligible for a reduced sentence.

8 (c-11) Any person 21 years of age or older convicted a
9 fourth or subsequent time for violating subsection (a) or a
10 similar provision, if at the time of the fourth or subsequent
11 violation the person was transporting a person under the age of
12 16, and if the person's 3 prior violations of subsection (a) or
13 a similar provision occurred while transporting a person under
14 the age of 16 or while the alcohol concentration in his or her
15 blood, breath, or urine was 0.16 or more based on the
16 definition of blood, breath, or urine units in Section
17 11-501.2, is guilty of a Class 2 felony, is not eligible for
18 probation or conditional discharge, and is subject to a minimum
19 fine of \$25,000.

20 (c-12) Any person convicted of a first violation of
21 subsection (a) or a similar provision, if the alcohol
22 concentration in his or her blood, breath, or urine was 0.16 or
23 more based on the definition of blood, breath, or urine units
24 in Section 11-501.2, shall be subject, in addition to any other
25 penalty that may be imposed, to a mandatory minimum of 100
26 hours of community service and a mandatory minimum fine of
27 \$500.

28 (c-13) Any person convicted of a second violation of
29 subsection (a) or a similar provision committed within 10 years
30 of a previous violation of subsection (a) or a similar
31 provision, if at the time of the second violation of subsection
32 (a) or a similar provision the alcohol concentration in his or
33 her blood, breath, or urine was 0.16 or more based on the
34 definition of blood, breath, or urine units in Section

1 11-501.2, shall be subject, in addition to any other penalty
2 that may be imposed, to a mandatory minimum of 2 days of
3 imprisonment and a mandatory minimum fine of \$1,250.

4 (c-14) Any person convicted of a third violation of
5 subsection (a) or a similar provision within 20 years of a
6 previous violation of subsection (a) or a similar provision, if
7 at the time of the third violation of subsection (a) or a
8 similar provision the alcohol concentration in his or her
9 blood, breath, or urine was 0.16 or more based on the
10 definition of blood, breath, or urine units in Section
11 11-501.2, is guilty of a Class 4 felony and shall be subject,
12 in addition to any other penalty that may be imposed, to a
13 mandatory minimum of 90 days of imprisonment and a mandatory
14 minimum fine of \$2,500.

15 (c-15) Any person convicted of a fourth or subsequent
16 violation of subsection (a) or a similar provision, if at the
17 time of the fourth or subsequent violation the alcohol
18 concentration in his or her blood, breath, or urine was 0.16 or
19 more based on the definition of blood, breath, or urine units
20 in Section 11-501.2, and if the person's 3 prior violations of
21 subsection (a) or a similar provision occurred while
22 transporting a person under the age of 16 or while the alcohol
23 concentration in his or her blood, breath, or urine was 0.16 or
24 more based on the definition of blood, breath, or urine units
25 in Section 11-501.2, is guilty of a Class 2 felony and is not
26 eligible for a sentence of probation or conditional discharge
27 and is subject to a minimum fine of \$2,500.

28 (d) (1) Every person convicted of committing a violation of
29 this Section shall be guilty of aggravated driving under
30 the influence of alcohol, other drug or drugs, or
31 intoxicating compound or compounds, or any combination
32 thereof if:

33 (A) the person committed a violation of subsection

34 (a) or a similar provision for the third or subsequent

1 time;

2 (B) the person committed a violation of subsection
3 (a) while driving a school bus with persons 18 years of
4 age or younger on board;

5 (C) the person in committing a violation of
6 subsection (a) was involved in a motor vehicle accident
7 that resulted in great bodily harm or permanent
8 disability or disfigurement to another, when the
9 violation was a proximate cause of the injuries;

10 (D) the person committed a violation of subsection
11 (a) for a second time and has been previously convicted
12 of violating Section 9-3 of the Criminal Code of 1961
13 or a similar provision of a law of another state
14 relating to reckless homicide in which the person was
15 determined to have been under the influence of alcohol,
16 other drug or drugs, or intoxicating compound or
17 compounds as an element of the offense or the person
18 has previously been convicted under subparagraph (C)
19 or subparagraph (F) of this paragraph (1); or

20 (E) the person, in committing a violation of
21 subsection (a) while driving at any speed in a school
22 speed zone at a time when a speed limit of 20 miles per
23 hour was in effect under subsection (a) of Section
24 11-605 of this Code, was involved in a motor vehicle
25 accident that resulted in bodily harm, other than great
26 bodily harm or permanent disability or disfigurement,
27 to another person, when the violation of subsection (a)
28 was a proximate cause of the bodily harm. ~~or~~

29 (F) (Blank). ~~the person, in committing a violation~~
30 ~~of subsection (a), was involved in a motor vehicle,~~
31 ~~snowmobile, all-terrain vehicle, or watercraft~~
32 ~~accident that resulted in the death of another person,~~
33 ~~when the violation of subsection (a) was a proximate~~
34 ~~cause of the death.~~

1 (2) Except as provided in this paragraph (2), a person
2 convicted of aggravated driving under the influence of
3 alcohol, other drug or drugs, or intoxicating compound or
4 compounds, or any combination thereof is guilty of a Class
5 4 felony. For a violation of subparagraph (C) of paragraph
6 (1) of this subsection (d), the defendant, if sentenced to
7 a term of imprisonment, shall be sentenced to not less than
8 one year nor more than 12 years. ~~Aggravated driving under~~
9 ~~the influence of alcohol, other drug or drugs, or~~
10 ~~intoxicating compound or compounds, or any combination~~
11 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
12 ~~this subsection (d) is a Class 2 felony, for which the~~
13 ~~defendant, if sentenced to a term of imprisonment, shall be~~
14 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
15 ~~years and not more than 14 years if the violation resulted~~
16 ~~in the death of one person; or (B) a term of imprisonment~~
17 ~~of not less than 6 years and not more than 28 years if the~~
18 ~~violation resulted in the deaths of 2 or more persons.~~ For
19 any prosecution under this subsection (d), a certified copy
20 of the driving abstract of the defendant shall be admitted
21 as proof of any prior conviction. Any person sentenced
22 under this subsection (d) who receives a term of probation
23 or conditional discharge must serve a minimum term of
24 either 480 hours of community service or 10 days of
25 imprisonment as a condition of the probation or conditional
26 discharge. This mandatory minimum term of imprisonment or
27 assignment of community service may not be suspended or
28 reduced by the court.

29 (e) After a finding of guilt and prior to any final
30 sentencing, or an order for supervision, for an offense based
31 upon an arrest for a violation of this Section or a similar
32 provision of a local ordinance, individuals shall be required
33 to undergo a professional evaluation to determine if an
34 alcohol, drug, or intoxicating compound abuse problem exists

1 and the extent of the problem, and undergo the imposition of
2 treatment as appropriate. Programs conducting these
3 evaluations shall be licensed by the Department of Human
4 Services. The cost of any professional evaluation shall be paid
5 for by the individual required to undergo the professional
6 evaluation.

7 (e-1) Any person who is found guilty of or pleads guilty to
8 violating this Section, including any person receiving a
9 disposition of court supervision for violating this Section,
10 may be required by the Court to attend a victim impact panel
11 offered by, or under contract with, a County State's Attorney's
12 office, a probation and court services department, Mothers
13 Against Drunk Driving, or the Alliance Against Intoxicated
14 Motorists. All costs generated by the victim impact panel shall
15 be paid from fees collected from the offender or as may be
16 determined by the court.

17 (f) Every person found guilty of violating this Section,
18 whose operation of a motor vehicle while in violation of this
19 Section proximately caused any incident resulting in an
20 appropriate emergency response, shall be liable for the expense
21 of an emergency response as provided under Section 5-5-3 of the
22 Unified Code of Corrections.

23 (g) The Secretary of State shall revoke the driving
24 privileges of any person convicted under this Section or a
25 similar provision of a local ordinance.

26 (h) (Blank).

27 (i) The Secretary of State shall require the use of
28 ignition interlock devices on all vehicles owned by an
29 individual who has been convicted of a second or subsequent
30 offense of this Section or a similar provision of a local
31 ordinance. The Secretary shall establish by rule and regulation
32 the procedures for certification and use of the interlock
33 system.

34 (j) In addition to any other penalties and liabilities, a

1 person who is found guilty of or pleads guilty to violating
2 subsection (a), including any person placed on court
3 supervision for violating subsection (a), shall be fined \$500,
4 payable to the circuit clerk, who shall distribute the money as
5 follows: 20% to the law enforcement agency that made the arrest
6 and 80% shall be forwarded to the State Treasurer for deposit
7 into the General Revenue Fund. If the person has been
8 previously convicted of violating subsection (a) or a similar
9 provision of a local ordinance, the fine shall be \$1,000. In
10 the event that more than one agency is responsible for the
11 arrest, the amount payable to law enforcement agencies shall be
12 shared equally. Any moneys received by a law enforcement agency
13 under this subsection (j) shall be used to purchase law
14 enforcement equipment that will assist in the prevention of
15 alcohol related criminal violence throughout the State. This
16 shall include, but is not limited to, in-car video cameras,
17 radar and laser speed detection devices, and alcohol breath
18 testers. Any moneys received by the Department of State Police
19 under this subsection (j) shall be deposited into the State
20 Police DUI Fund and shall be used to purchase law enforcement
21 equipment that will assist in the prevention of alcohol related
22 criminal violence throughout the State.

23 (k) The Secretary of State Police DUI Fund is created as a
24 special fund in the State treasury. All moneys received by the
25 Secretary of State Police under subsection (j) of this Section
26 shall be deposited into the Secretary of State Police DUI Fund
27 and, subject to appropriation, shall be used to purchase law
28 enforcement equipment to assist in the prevention of alcohol
29 related criminal violence throughout the State.

30 (l) Whenever an individual is sentenced for an offense
31 based upon an arrest for a violation of subsection (a) or a
32 similar provision of a local ordinance, and the professional
33 evaluation recommends remedial or rehabilitative treatment or
34 education, neither the treatment nor the education shall be the

1 sole disposition and either or both may be imposed only in
2 conjunction with another disposition. The court shall monitor
3 compliance with any remedial education or treatment
4 recommendations contained in the professional evaluation.
5 Programs conducting alcohol or other drug evaluation or
6 remedial education must be licensed by the Department of Human
7 Services. If the individual is not a resident of Illinois,
8 however, the court may accept an alcohol or other drug
9 evaluation or remedial education program in the individual's
10 state of residence. Programs providing treatment must be
11 licensed under existing applicable alcoholism and drug
12 treatment licensure standards.

13 (m) In addition to any other fine or penalty required by
14 law, an individual convicted of a violation of subsection (a),
15 Section 5-7 of the Snowmobile Registration and Safety Act,
16 Section 5-16 of the Boat Registration and Safety Act, or a
17 similar provision, whose operation of a motor vehicle,
18 snowmobile, or watercraft while in violation of subsection (a),
19 Section 5-7 of the Snowmobile Registration and Safety Act,
20 Section 5-16 of the Boat Registration and Safety Act, or a
21 similar provision proximately caused an incident resulting in
22 an appropriate emergency response, shall be required to make
23 restitution to a public agency for the costs of that emergency
24 response. The restitution may not exceed \$1,000 per public
25 agency for each emergency response. As used in this subsection
26 (m), "emergency response" means any incident requiring a
27 response by a police officer, a firefighter carried on the
28 rolls of a regularly constituted fire department, or an
29 ambulance.

30 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
31 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
32 93-840, eff. 7-30-04; 94-110, eff. 1-1-06.)

33 (Text of Section from P.A. 94-113 and 94-609)

1 Sec. 11-501. Driving while under the influence of alcohol,
2 other drug or drugs, intoxicating compound or compounds or any
3 combination thereof.

4 (a) A person shall not drive or be in actual physical
5 control of any vehicle within this State while:

6 (1) the alcohol concentration in the person's blood or
7 breath is 0.08 or more based on the definition of blood and
8 breath units in Section 11-501.2;

9 (2) under the influence of alcohol;

10 (3) under the influence of any intoxicating compound or
11 combination of intoxicating compounds to a degree that
12 renders the person incapable of driving safely;

13 (4) under the influence of any other drug or
14 combination of drugs to a degree that renders the person
15 incapable of safely driving;

16 (5) under the combined influence of alcohol, other drug
17 or drugs, or intoxicating compound or compounds to a degree
18 that renders the person incapable of safely driving; or

19 (6) there is any amount of a drug, substance, or
20 compound in the person's breath, blood, or urine resulting
21 from the unlawful use or consumption of cannabis listed in
22 the Cannabis Control Act, a controlled substance listed in
23 the Illinois Controlled Substances Act, or an intoxicating
24 compound listed in the Use of Intoxicating Compounds Act.

25 (b) The fact that any person charged with violating this
26 Section is or has been legally entitled to use alcohol, other
27 drug or drugs, or intoxicating compound or compounds, or any
28 combination thereof, shall not constitute a defense against any
29 charge of violating this Section.

30 (b-1) With regard to penalties imposed under this Section:

31 (1) Any reference to a prior violation of subsection
32 (a) or a similar provision includes any violation of a
33 provision of a local ordinance or a provision of a law of
34 another state that is similar to a violation of subsection

1 (a) of this Section.

2 (2) Any penalty imposed for driving with a license that
3 has been revoked for a previous violation of subsection (a)
4 of this Section shall be in addition to the penalty imposed
5 for any subsequent violation of subsection (a).

6 (b-2) Except as otherwise provided in this Section, any
7 person convicted of violating subsection (a) of this Section is
8 guilty of a Class A misdemeanor.

9 (b-3) In addition to any other criminal or administrative
10 sanction for any second conviction of violating subsection (a)
11 or a similar provision committed within 5 years of a previous
12 violation of subsection (a) or a similar provision, the
13 defendant shall be sentenced to a mandatory minimum of 5 days
14 of imprisonment or assigned a mandatory minimum of 240 hours of
15 community service as may be determined by the court.

16 (b-4) In the case of a third or subsequent violation
17 committed within 5 years of a previous violation of subsection
18 (a) or a similar provision, in addition to any other criminal
19 or administrative sanction, a mandatory minimum term of either
20 10 days of imprisonment or 480 hours of community service shall
21 be imposed.

22 (b-5) The imprisonment or assignment of community service
23 under subsections (b-3) and (b-4) shall not be subject to
24 suspension, nor shall the person be eligible for a reduced
25 sentence.

26 (c) (Blank).

27 (c-1) (1) A person who violates subsection (a) during a
28 period in which his or her driving privileges are revoked
29 or suspended, where the revocation or suspension was for a
30 violation of subsection (a), Section 11-501.1, paragraph
31 (b) of Section 11-401, or for reckless homicide as defined
32 in Section 9-3 of the Criminal Code of 1961 is guilty of a
33 Class 4 felony.

34 (2) A person who violates subsection (a) a third time,

1 if the third violation occurs during a period in which his
2 or her driving privileges are revoked or suspended where
3 the revocation or suspension was for a violation of
4 subsection (a), Section 11-501.1, paragraph (b) of Section
5 11-401, or for reckless homicide as defined in Section 9-3
6 of the Criminal Code of 1961, is guilty of a Class 3
7 felony.

8 (2.1) A person who violates subsection (a) a third
9 time, if the third violation occurs during a period in
10 which his or her driving privileges are revoked or
11 suspended where the revocation or suspension was for a
12 violation of subsection (a), Section 11-501.1, subsection
13 (b) of Section 11-401, or for reckless homicide as defined
14 in Section 9-3 of the Criminal Code of 1961, is guilty of a
15 Class 3 felony; and if the person receives a term of
16 probation or conditional discharge, he or she shall be
17 required to serve a mandatory minimum of 10 days of
18 imprisonment or shall be assigned a mandatory minimum of
19 480 hours of community service, as may be determined by the
20 court, as a condition of the probation or conditional
21 discharge. This mandatory minimum term of imprisonment or
22 assignment of community service shall not be suspended or
23 reduced by the court.

24 (2.2) A person who violates subsection (a), if the
25 violation occurs during a period in which his or her
26 driving privileges are revoked or suspended where the
27 revocation or suspension was for a violation of subsection
28 (a) or Section 11-501.1, shall also be sentenced to an
29 additional mandatory minimum term of 30 consecutive days of
30 imprisonment, 40 days of 24-hour periodic imprisonment, or
31 720 hours of community service, as may be determined by the
32 court. This mandatory term of imprisonment or assignment of
33 community service shall not be suspended or reduced by the
34 court.

1 (3) A person who violates subsection (a) a fourth or
2 subsequent time, if the fourth or subsequent violation
3 occurs during a period in which his or her driving
4 privileges are revoked or suspended where the revocation or
5 suspension was for a violation of subsection (a), Section
6 11-501.1, paragraph (b) of Section 11-401, or for reckless
7 homicide as defined in Section 9-3 of the Criminal Code of
8 1961, is guilty of a Class 2 felony and is not eligible for
9 a sentence of probation or conditional discharge.

10 (c-2) (Blank).

11 (c-3) (Blank).

12 (c-4) (Blank).

13 (c-5) A person who violates subsection (a), if the person
14 was transporting a person under the age of 16 at the time of
15 the violation, is subject to an additional mandatory minimum
16 fine of \$1,000, an additional mandatory minimum 140 hours of
17 community service, which shall include 40 hours of community
18 service in a program benefiting children, and an additional 2
19 days of imprisonment. The imprisonment or assignment of
20 community service under this subsection (c-5) is not subject to
21 suspension, nor is the person eligible for a reduced sentence.

22 (c-6) Except as provided in subsections (c-7) and (c-8) a
23 person who violates subsection (a) a second time, if at the
24 time of the second violation the person was transporting a
25 person under the age of 16, is subject to an additional 10 days
26 of imprisonment, an additional mandatory minimum fine of
27 \$1,000, and an additional mandatory minimum 140 hours of
28 community service, which shall include 40 hours of community
29 service in a program benefiting children. The imprisonment or
30 assignment of community service under this subsection (c-6) is
31 not subject to suspension, nor is the person eligible for a
32 reduced sentence.

33 (c-7) Except as provided in subsection (c-8), any person
34 convicted of violating subsection (c-6) or a similar provision

1 within 10 years of a previous violation of subsection (a) or a
2 similar provision shall receive, in addition to any other
3 penalty imposed, a mandatory minimum 12 days imprisonment, an
4 additional 40 hours of mandatory community service in a program
5 benefiting children, and a mandatory minimum fine of \$1,750.
6 The imprisonment or assignment of community service under this
7 subsection (c-7) is not subject to suspension, nor is the
8 person eligible for a reduced sentence.

9 (c-8) Any person convicted of violating subsection (c-6) or
10 a similar provision within 5 years of a previous violation of
11 subsection (a) or a similar provision shall receive, in
12 addition to any other penalty imposed, an additional 80 hours
13 of mandatory community service in a program benefiting
14 children, an additional mandatory minimum 12 days of
15 imprisonment, and a mandatory minimum fine of \$1,750. The
16 imprisonment or assignment of community service under this
17 subsection (c-8) is not subject to suspension, nor is the
18 person eligible for a reduced sentence.

19 (c-9) Any person convicted a third time for violating
20 subsection (a) or a similar provision, if at the time of the
21 third violation the person was transporting a person under the
22 age of 16, is guilty of a Class 4 felony and shall receive, in
23 addition to any other penalty imposed, an additional mandatory
24 fine of \$1,000, an additional mandatory 140 hours of community
25 service, which shall include 40 hours in a program benefiting
26 children, and a mandatory minimum 30 days of imprisonment. The
27 imprisonment or assignment of community service under this
28 subsection (c-9) is not subject to suspension, nor is the
29 person eligible for a reduced sentence.

30 (c-10) Any person convicted of violating subsection (c-9)
31 or a similar provision a third time within 20 years of a
32 previous violation of subsection (a) or a similar provision is
33 guilty of a Class 4 felony and shall receive, in addition to
34 any other penalty imposed, an additional mandatory 40 hours of

1 community service in a program benefiting children, an
2 additional mandatory fine of \$3,000, and a mandatory minimum
3 120 days of imprisonment. The imprisonment or assignment of
4 community service under this subsection (c-10) is not subject
5 to suspension, nor is the person eligible for a reduced
6 sentence.

7 (c-11) Any person convicted a fourth or subsequent time for
8 violating subsection (a) or a similar provision, if at the time
9 of the fourth or subsequent violation the person was
10 transporting a person under the age of 16, and if the person's
11 3 prior violations of subsection (a) or a similar provision
12 occurred while transporting a person under the age of 16 or
13 while the alcohol concentration in his or her blood, breath, or
14 urine was 0.16 or more based on the definition of blood,
15 breath, or urine units in Section 11-501.2, is guilty of a
16 Class 2 felony, is not eligible for probation or conditional
17 discharge, and is subject to a minimum fine of \$3,000.

18 (c-12) Any person convicted of a first violation of
19 subsection (a) or a similar provision, if the alcohol
20 concentration in his or her blood, breath, or urine was 0.16 or
21 more based on the definition of blood, breath, or urine units
22 in Section 11-501.2, shall be subject, in addition to any other
23 penalty that may be imposed, to a mandatory minimum of 100
24 hours of community service and a mandatory minimum fine of
25 \$500.

26 (c-13) Any person convicted of a second violation of
27 subsection (a) or a similar provision committed within 10 years
28 of a previous violation of subsection (a) or a similar
29 provision committed within 10 years of a previous violation of
30 subsection (a) or a similar provision, if at the time of the
31 second violation of subsection (a) the alcohol concentration in
32 his or her blood, breath, or urine was 0.16 or more based on
33 the definition of blood, breath, or urine units in Section
34 11-501.2, shall be subject, in addition to any other penalty

1 that may be imposed, to a mandatory minimum of 2 days of
2 imprisonment and a mandatory minimum fine of \$1,250.

3 (c-14) Any person convicted of a third violation of
4 subsection (a) or a similar provision within 20 years of a
5 previous violation of subsection (a) or a similar provision, if
6 at the time of the third violation of subsection (a) or a
7 similar provision the alcohol concentration in his or her
8 blood, breath, or urine was 0.16 or more based on the
9 definition of blood, breath, or urine units in Section
10 11-501.2, is guilty of a Class 4 felony and shall be subject,
11 in addition to any other penalty that may be imposed, to a
12 mandatory minimum of 90 days of imprisonment and a mandatory
13 minimum fine of \$2,500.

14 (c-15) Any person convicted of a fourth or subsequent
15 violation of subsection (a) or a similar provision, if at the
16 time of the fourth or subsequent violation the alcohol
17 concentration in his or her blood, breath, or urine was 0.16 or
18 more based on the definition of blood, breath, or urine units
19 in Section 11-501.2, and if the person's 3 prior violations of
20 subsection (a) or a similar provision occurred while
21 transporting a person under the age of 16 or while the alcohol
22 concentration in his or her blood, breath, or urine was 0.16 or
23 more based on the definition of blood, breath, or urine units
24 in Section 11-501.2, is guilty of a Class 2 felony and is not
25 eligible for a sentence of probation or conditional discharge
26 and is subject to a minimum fine of \$2,500.

27 (d) (1) Every person convicted of committing a violation of
28 this Section shall be guilty of aggravated driving under
29 the influence of alcohol, other drug or drugs, or
30 intoxicating compound or compounds, or any combination
31 thereof if:

32 (A) the person committed a violation of subsection
33 (a) or a similar provision for the third or subsequent
34 time;

1 (B) the person committed a violation of subsection
2 (a) while driving a school bus with persons 18 years of
3 age or younger on board;

4 (C) the person in committing a violation of
5 subsection (a) was involved in a motor vehicle accident
6 that resulted in great bodily harm or permanent
7 disability or disfigurement to another, when the
8 violation was a proximate cause of the injuries;

9 (D) the person committed a violation of subsection
10 (a) for a second time and has been previously convicted
11 of violating Section 9-3 of the Criminal Code of 1961
12 or a similar provision of a law of another state
13 relating to reckless homicide in which the person was
14 determined to have been under the influence of alcohol,
15 other drug or drugs, or intoxicating compound or
16 compounds as an element of the offense or the person
17 has previously been convicted under subparagraph (C)
18 or subparagraph (F) of this paragraph (1); or

19 (E) the person, in committing a violation of
20 subsection (a) while driving at any speed in a school
21 speed zone at a time when a speed limit of 20 miles per
22 hour was in effect under subsection (a) of Section
23 11-605 of this Code, was involved in a motor vehicle
24 accident that resulted in bodily harm, other than great
25 bodily harm or permanent disability or disfigurement,
26 to another person, when the violation of subsection (a)
27 was a proximate cause of the bodily harm. ~~;~~ ~~or~~

28 (F) (Blank). ~~the person, in committing a violation~~
29 ~~of subsection (a), was involved in a motor vehicle,~~
30 ~~snowmobile, all-terrain vehicle, or watercraft~~
31 ~~accident that resulted in the death of another person,~~
32 ~~when the violation of subsection (a) was a proximate~~
33 ~~cause of the death.~~

34 (2) Except as provided in this paragraph (2), a person

1 convicted of aggravated driving under the influence of
2 alcohol, other drug or drugs, or intoxicating compound or
3 compounds, or any combination thereof is guilty of a Class
4 4 felony. For a violation of subparagraph (C) of paragraph
5 (1) of this subsection (d), the defendant, if sentenced to
6 a term of imprisonment, shall be sentenced to not less than
7 one year nor more than 12 years. ~~Aggravated driving under~~
8 ~~the influence of alcohol, other drug or drugs, or~~
9 ~~intoxicating compound or compounds, or any combination~~
10 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
11 ~~this subsection (d) is a Class 2 felony, for which the~~
12 ~~defendant, unless the court determines that extraordinary~~
13 ~~circumstances exist and require probation, shall be~~
14 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
15 ~~years and not more than 14 years if the violation resulted~~
16 ~~in the death of one person; or (B) a term of imprisonment~~
17 ~~of not less than 6 years and not more than 28 years if the~~
18 ~~violation resulted in the deaths of 2 or more persons.~~ For
19 any prosecution under this subsection (d), a certified copy
20 of the driving abstract of the defendant shall be admitted
21 as proof of any prior conviction. Any person sentenced
22 under this subsection (d) who receives a term of probation
23 or conditional discharge must serve a minimum term of
24 either 480 hours of community service or 10 days of
25 imprisonment as a condition of the probation or conditional
26 discharge. This mandatory minimum term of imprisonment or
27 assignment of community service may not be suspended or
28 reduced by the court.

29 (e) After a finding of guilt and prior to any final
30 sentencing, or an order for supervision, for an offense based
31 upon an arrest for a violation of this Section or a similar
32 provision of a local ordinance, individuals shall be required
33 to undergo a professional evaluation to determine if an
34 alcohol, drug, or intoxicating compound abuse problem exists

1 and the extent of the problem, and undergo the imposition of
2 treatment as appropriate. Programs conducting these
3 evaluations shall be licensed by the Department of Human
4 Services. The cost of any professional evaluation shall be paid
5 for by the individual required to undergo the professional
6 evaluation.

7 (e-1) Any person who is found guilty of or pleads guilty to
8 violating this Section, including any person receiving a
9 disposition of court supervision for violating this Section,
10 may be required by the Court to attend a victim impact panel
11 offered by, or under contract with, a County State's Attorney's
12 office, a probation and court services department, Mothers
13 Against Drunk Driving, or the Alliance Against Intoxicated
14 Motorists. All costs generated by the victim impact panel shall
15 be paid from fees collected from the offender or as may be
16 determined by the court.

17 (f) Every person found guilty of violating this Section,
18 whose operation of a motor vehicle while in violation of this
19 Section proximately caused any incident resulting in an
20 appropriate emergency response, shall be liable for the expense
21 of an emergency response as provided under Section 5-5-3 of the
22 Unified Code of Corrections.

23 (g) The Secretary of State shall revoke the driving
24 privileges of any person convicted under this Section or a
25 similar provision of a local ordinance.

26 (h) (Blank).

27 (i) The Secretary of State shall require the use of
28 ignition interlock devices on all vehicles owned by an
29 individual who has been convicted of a second or subsequent
30 offense of this Section or a similar provision of a local
31 ordinance. The Secretary shall establish by rule and regulation
32 the procedures for certification and use of the interlock
33 system.

34 (j) In addition to any other penalties and liabilities, a

1 person who is found guilty of or pleads guilty to violating
2 subsection (a), including any person placed on court
3 supervision for violating subsection (a), shall be fined \$500,
4 payable to the circuit clerk, who shall distribute the money as
5 follows: 20% to the law enforcement agency that made the arrest
6 and 80% shall be forwarded to the State Treasurer for deposit
7 into the General Revenue Fund. If the person has been
8 previously convicted of violating subsection (a) or a similar
9 provision of a local ordinance, the fine shall be \$1,000. In
10 the event that more than one agency is responsible for the
11 arrest, the amount payable to law enforcement agencies shall be
12 shared equally. Any moneys received by a law enforcement agency
13 under this subsection (j) shall be used to purchase law
14 enforcement equipment that will assist in the prevention of
15 alcohol related criminal violence throughout the State. This
16 shall include, but is not limited to, in-car video cameras,
17 radar and laser speed detection devices, and alcohol breath
18 testers. Any moneys received by the Department of State Police
19 under this subsection (j) shall be deposited into the State
20 Police DUI Fund and shall be used to purchase law enforcement
21 equipment that will assist in the prevention of alcohol related
22 criminal violence throughout the State.

23 (k) The Secretary of State Police DUI Fund is created as a
24 special fund in the State treasury. All moneys received by the
25 Secretary of State Police under subsection (j) of this Section
26 shall be deposited into the Secretary of State Police DUI Fund
27 and, subject to appropriation, shall be used to purchase law
28 enforcement equipment to assist in the prevention of alcohol
29 related criminal violence throughout the State.

30 (l) Whenever an individual is sentenced for an offense
31 based upon an arrest for a violation of subsection (a) or a
32 similar provision of a local ordinance, and the professional
33 evaluation recommends remedial or rehabilitative treatment or
34 education, neither the treatment nor the education shall be the

1 sole disposition and either or both may be imposed only in
2 conjunction with another disposition. The court shall monitor
3 compliance with any remedial education or treatment
4 recommendations contained in the professional evaluation.
5 Programs conducting alcohol or other drug evaluation or
6 remedial education must be licensed by the Department of Human
7 Services. If the individual is not a resident of Illinois,
8 however, the court may accept an alcohol or other drug
9 evaluation or remedial education program in the individual's
10 state of residence. Programs providing treatment must be
11 licensed under existing applicable alcoholism and drug
12 treatment licensure standards.

13 (m) In addition to any other fine or penalty required by
14 law, an individual convicted of a violation of subsection (a),
15 Section 5-7 of the Snowmobile Registration and Safety Act,
16 Section 5-16 of the Boat Registration and Safety Act, or a
17 similar provision, whose operation of a motor vehicle,
18 snowmobile, or watercraft while in violation of subsection (a),
19 Section 5-7 of the Snowmobile Registration and Safety Act,
20 Section 5-16 of the Boat Registration and Safety Act, or a
21 similar provision proximately caused an incident resulting in
22 an appropriate emergency response, shall be required to make
23 restitution to a public agency for the costs of that emergency
24 response. The restitution may not exceed \$1,000 per public
25 agency for each emergency response. As used in this subsection
26 (m), "emergency response" means any incident requiring a
27 response by a police officer, a firefighter carried on the
28 rolls of a regularly constituted fire department, or an
29 ambulance.

30 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
31 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
32 93-840, eff. 7-30-04; 94-113, eff. 1-1-06; 94-609, eff.
33 1-1-06.)

1 (Text of Section from P.A. 94-114)

2 Sec. 11-501. Driving while under the influence of alcohol,
3 other drug or drugs, intoxicating compound or compounds or any
4 combination thereof.

5 (a) A person shall not drive or be in actual physical
6 control of any vehicle within this State while:

7 (1) the alcohol concentration in the person's blood or
8 breath is 0.08 or more based on the definition of blood and
9 breath units in Section 11-501.2;

10 (2) under the influence of alcohol;

11 (3) under the influence of any intoxicating compound or
12 combination of intoxicating compounds to a degree that
13 renders the person incapable of driving safely;

14 (4) under the influence of any other drug or
15 combination of drugs to a degree that renders the person
16 incapable of safely driving;

17 (5) under the combined influence of alcohol, other drug
18 or drugs, or intoxicating compound or compounds to a degree
19 that renders the person incapable of safely driving; or

20 (6) there is any amount of a drug, substance, or
21 compound in the person's breath, blood, or urine resulting
22 from the unlawful use or consumption of cannabis listed in
23 the Cannabis Control Act, a controlled substance listed in
24 the Illinois Controlled Substances Act, or an intoxicating
25 compound listed in the Use of Intoxicating Compounds Act.

26 (b) The fact that any person charged with violating this
27 Section is or has been legally entitled to use alcohol, other
28 drug or drugs, or intoxicating compound or compounds, or any
29 combination thereof, shall not constitute a defense against any
30 charge of violating this Section.

31 (b-1) With regard to penalties imposed under this Section:

32 (1) Any reference to a prior violation of subsection

33 (a) or a similar provision includes any violation of a
34 provision of a local ordinance or a provision of a law of

1 another state that is similar to a violation of subsection
2 (a) of this Section.

3 (2) Any penalty imposed for driving with a license that
4 has been revoked for a previous violation of subsection (a)
5 of this Section shall be in addition to the penalty imposed
6 for any subsequent violation of subsection (a).

7 (b-2) Except as otherwise provided in this Section, any
8 person convicted of violating subsection (a) of this Section is
9 guilty of a Class A misdemeanor.

10 (b-3) In addition to any other criminal or administrative
11 sanction for any second conviction of violating subsection (a)
12 or a similar provision committed within 5 years of a previous
13 violation of subsection (a) or a similar provision, the
14 defendant shall be sentenced to a mandatory minimum of 5 days
15 of imprisonment or assigned a mandatory minimum of 240 hours of
16 community service as may be determined by the court.

17 (b-4) In the case of a third or subsequent violation
18 committed within 5 years of a previous violation of subsection
19 (a) or a similar provision, in addition to any other criminal
20 or administrative sanction, a mandatory minimum term of either
21 10 days of imprisonment or 480 hours of community service shall
22 be imposed.

23 (b-5) The imprisonment or assignment of community service
24 under subsections (b-3) and (b-4) shall not be subject to
25 suspension, nor shall the person be eligible for a reduced
26 sentence.

27 (c) (Blank).

28 (c-1) (1) A person who violates subsection (a) during a
29 period in which his or her driving privileges are revoked
30 or suspended, where the revocation or suspension was for a
31 violation of subsection (a), Section 11-501.1, paragraph
32 (b) of Section 11-401, or for reckless homicide as defined
33 in Section 9-3 of the Criminal Code of 1961 is guilty of a
34 Class 4 felony.

1 (2) A person who violates subsection (a) a third time,
2 if the third violation occurs during a period in which his
3 or her driving privileges are revoked or suspended where
4 the revocation or suspension was for a violation of
5 subsection (a), Section 11-501.1, paragraph (b) of Section
6 11-401, or for reckless homicide as defined in Section 9-3
7 of the Criminal Code of 1961, is guilty of a Class 3
8 felony.

9 (2.1) A person who violates subsection (a) a third
10 time, if the third violation occurs during a period in
11 which his or her driving privileges are revoked or
12 suspended where the revocation or suspension was for a
13 violation of subsection (a), Section 11-501.1, subsection
14 (b) of Section 11-401, or for reckless homicide as defined
15 in Section 9-3 of the Criminal Code of 1961, is guilty of a
16 Class 3 felony; and if the person receives a term of
17 probation or conditional discharge, he or she shall be
18 required to serve a mandatory minimum of 10 days of
19 imprisonment or shall be assigned a mandatory minimum of
20 480 hours of community service, as may be determined by the
21 court, as a condition of the probation or conditional
22 discharge. This mandatory minimum term of imprisonment or
23 assignment of community service shall not be suspended or
24 reduced by the court.

25 (2.2) A person who violates subsection (a), if the
26 violation occurs during a period in which his or her
27 driving privileges are revoked or suspended where the
28 revocation or suspension was for a violation of subsection
29 (a) or Section 11-501.1, shall also be sentenced to an
30 additional mandatory minimum term of 30 consecutive days of
31 imprisonment, 40 days of 24-hour periodic imprisonment, or
32 720 hours of community service, as may be determined by the
33 court. This mandatory term of imprisonment or assignment of
34 community service shall not be suspended or reduced by the

1 court.

2 (3) A person who violates subsection (a) a fourth or
3 fifth time, if the fourth or fifth violation occurs during
4 a period in which his or her driving privileges are revoked
5 or suspended where the revocation or suspension was for a
6 violation of subsection (a), Section 11-501.1, paragraph
7 (b) of Section 11-401, or for reckless homicide as defined
8 in Section 9-3 of the Criminal Code of 1961, is guilty of a
9 Class 2 felony and is not eligible for a sentence of
10 probation or conditional discharge.

11 (c-2) (Blank).

12 (c-3) (Blank).

13 (c-4) (Blank).

14 (c-5) A person who violates subsection (a), if the person
15 was transporting a person under the age of 16 at the time of
16 the violation, is subject to an additional mandatory minimum
17 fine of \$1,000, an additional mandatory minimum 140 hours of
18 community service, which shall include 40 hours of community
19 service in a program benefiting children, and an additional 2
20 days of imprisonment. The imprisonment or assignment of
21 community service under this subsection (c-5) is not subject to
22 suspension, nor is the person eligible for a reduced sentence.

23 (c-6) Except as provided in subsections (c-7) and (c-8) a
24 person who violates subsection (a) a second time, if at the
25 time of the second violation the person was transporting a
26 person under the age of 16, is subject to an additional 10 days
27 of imprisonment, an additional mandatory minimum fine of
28 \$1,000, and an additional mandatory minimum 140 hours of
29 community service, which shall include 40 hours of community
30 service in a program benefiting children. The imprisonment or
31 assignment of community service under this subsection (c-6) is
32 not subject to suspension, nor is the person eligible for a
33 reduced sentence.

34 (c-7) Except as provided in subsection (c-8), any person

1 convicted of violating subsection (c-6) or a similar provision
2 within 10 years of a previous violation of subsection (a) or a
3 similar provision shall receive, in addition to any other
4 penalty imposed, a mandatory minimum 12 days imprisonment, an
5 additional 40 hours of mandatory community service in a program
6 benefiting children, and a mandatory minimum fine of \$1,750.
7 The imprisonment or assignment of community service under this
8 subsection (c-7) is not subject to suspension, nor is the
9 person eligible for a reduced sentence.

10 (c-8) Any person convicted of violating subsection (c-6) or
11 a similar provision within 5 years of a previous violation of
12 subsection (a) or a similar provision shall receive, in
13 addition to any other penalty imposed, an additional 80 hours
14 of mandatory community service in a program benefiting
15 children, an additional mandatory minimum 12 days of
16 imprisonment, and a mandatory minimum fine of \$1,750. The
17 imprisonment or assignment of community service under this
18 subsection (c-8) is not subject to suspension, nor is the
19 person eligible for a reduced sentence.

20 (c-9) Any person convicted a third time for violating
21 subsection (a) or a similar provision, if at the time of the
22 third violation the person was transporting a person under the
23 age of 16, is guilty of a Class 4 felony and shall receive, in
24 addition to any other penalty imposed, an additional mandatory
25 fine of \$1,000, an additional mandatory 140 hours of community
26 service, which shall include 40 hours in a program benefiting
27 children, and a mandatory minimum 30 days of imprisonment. The
28 imprisonment or assignment of community service under this
29 subsection (c-9) is not subject to suspension, nor is the
30 person eligible for a reduced sentence.

31 (c-10) Any person convicted of violating subsection (c-9)
32 or a similar provision a third time within 20 years of a
33 previous violation of subsection (a) or a similar provision is
34 guilty of a Class 4 felony and shall receive, in addition to

1 any other penalty imposed, an additional mandatory 40 hours of
2 community service in a program benefiting children, an
3 additional mandatory fine of \$3,000, and a mandatory minimum
4 120 days of imprisonment. The imprisonment or assignment of
5 community service under this subsection (c-10) is not subject
6 to suspension, nor is the person eligible for a reduced
7 sentence.

8 (c-11) Any person convicted a fourth or fifth time for
9 violating subsection (a) or a similar provision, if at the time
10 of the fourth or fifth violation the person was transporting a
11 person under the age of 16, and if the person's 3 prior
12 violations of subsection (a) or a similar provision occurred
13 while transporting a person under the age of 16 or while the
14 alcohol concentration in his or her blood, breath, or urine was
15 0.16 or more based on the definition of blood, breath, or urine
16 units in Section 11-501.2, is guilty of a Class 2 felony, is
17 not eligible for probation or conditional discharge, and is
18 subject to a minimum fine of \$3,000.

19 (c-12) Any person convicted of a first violation of
20 subsection (a) or a similar provision, if the alcohol
21 concentration in his or her blood, breath, or urine was 0.16 or
22 more based on the definition of blood, breath, or urine units
23 in Section 11-501.2, shall be subject, in addition to any other
24 penalty that may be imposed, to a mandatory minimum of 100
25 hours of community service and a mandatory minimum fine of
26 \$500.

27 (c-13) Any person convicted of a second violation of
28 subsection (a) or a similar provision committed within 10 years
29 of a previous violation of subsection (a) or a similar
30 provision committed within 10 years of a previous violation of
31 subsection (a) or a similar provision, if at the time of the
32 second violation of subsection (a) the alcohol concentration in
33 his or her blood, breath, or urine was 0.16 or more based on
34 the definition of blood, breath, or urine units in Section

1 11-501.2, shall be subject, in addition to any other penalty
2 that may be imposed, to a mandatory minimum of 2 days of
3 imprisonment and a mandatory minimum fine of \$1,250.

4 (c-14) Any person convicted of a third violation of
5 subsection (a) or a similar provision within 20 years of a
6 previous violation of subsection (a) or a similar provision, if
7 at the time of the third violation of subsection (a) or a
8 similar provision the alcohol concentration in his or her
9 blood, breath, or urine was 0.16 or more based on the
10 definition of blood, breath, or urine units in Section
11 11-501.2, is guilty of a Class 4 felony and shall be subject,
12 in addition to any other penalty that may be imposed, to a
13 mandatory minimum of 90 days of imprisonment and a mandatory
14 minimum fine of \$2,500.

15 (c-15) Any person convicted of a fourth or fifth violation
16 of subsection (a) or a similar provision, if at the time of the
17 fourth or fifth violation the alcohol concentration in his or
18 her blood, breath, or urine was 0.16 or more based on the
19 definition of blood, breath, or urine units in Section
20 11-501.2, and if the person's 3 prior violations of subsection
21 (a) or a similar provision occurred while transporting a person
22 under the age of 16 or while the alcohol concentration in his
23 or her blood, breath, or urine was 0.16 or more based on the
24 definition of blood, breath, or urine units in Section
25 11-501.2, is guilty of a Class 2 felony and is not eligible for
26 a sentence of probation or conditional discharge and is subject
27 to a minimum fine of \$2,500.

28 (c-16) Any person convicted of a sixth or subsequent
29 violation of subsection (a) is guilty of a Class X felony.

30 (d) (1) Every person convicted of committing a violation of
31 this Section shall be guilty of aggravated driving under
32 the influence of alcohol, other drug or drugs, or
33 intoxicating compound or compounds, or any combination
34 thereof if:

1 (A) the person committed a violation of subsection
2 (a) or a similar provision for the third or subsequent
3 time;

4 (B) the person committed a violation of subsection
5 (a) while driving a school bus with persons 18 years of
6 age or younger on board;

7 (C) the person in committing a violation of
8 subsection (a) was involved in a motor vehicle accident
9 that resulted in great bodily harm or permanent
10 disability or disfigurement to another, when the
11 violation was a proximate cause of the injuries;

12 (D) the person committed a violation of subsection
13 (a) for a second time and has been previously convicted
14 of violating Section 9-3 of the Criminal Code of 1961
15 or a similar provision of a law of another state
16 relating to reckless homicide in which the person was
17 determined to have been under the influence of alcohol,
18 other drug or drugs, or intoxicating compound or
19 compounds as an element of the offense or the person
20 has previously been convicted under subparagraph (C)
21 or subparagraph (F) of this paragraph (1); or

22 (E) the person, in committing a violation of
23 subsection (a) while driving at any speed in a school
24 speed zone at a time when a speed limit of 20 miles per
25 hour was in effect under subsection (a) of Section
26 11-605 of this Code, was involved in a motor vehicle
27 accident that resulted in bodily harm, other than great
28 bodily harm or permanent disability or disfigurement,
29 to another person, when the violation of subsection (a)
30 was a proximate cause of the bodily harm. ~~or~~

31 (F) (Blank). ~~the person, in committing a violation~~
32 ~~of subsection (a), was involved in a motor vehicle,~~
33 ~~snowmobile, all-terrain vehicle, or watercraft~~
34 ~~accident that resulted in the death of another person,~~

1 ~~when the violation of subsection (a) was a proximate~~
2 ~~cause of the death.~~

3 (2) Except as provided in this paragraph (2), a person
4 convicted of aggravated driving under the influence of
5 alcohol, other drug or drugs, or intoxicating compound or
6 compounds, or any combination thereof is guilty of a Class
7 4 felony. For a violation of subparagraph (C) of paragraph
8 (1) of this subsection (d), the defendant, if sentenced to
9 a term of imprisonment, shall be sentenced to not less than
10 one year nor more than 12 years. ~~Aggravated driving under~~
11 ~~the influence of alcohol, other drug or drugs, or~~
12 ~~intoxicating compound or compounds, or any combination~~
13 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
14 ~~this subsection (d) is a Class 2 felony, for which the~~
15 ~~defendant, if sentenced to a term of imprisonment, shall be~~
16 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
17 ~~years and not more than 14 years if the violation resulted~~
18 ~~in the death of one person; or (B) a term of imprisonment~~
19 ~~of not less than 6 years and not more than 28 years if the~~
20 ~~violation resulted in the deaths of 2 or more persons.~~ For
21 any prosecution under this subsection (d), a certified copy
22 of the driving abstract of the defendant shall be admitted
23 as proof of any prior conviction. Any person sentenced
24 under this subsection (d) who receives a term of probation
25 or conditional discharge must serve a minimum term of
26 either 480 hours of community service or 10 days of
27 imprisonment as a condition of the probation or conditional
28 discharge. This mandatory minimum term of imprisonment or
29 assignment of community service may not be suspended or
30 reduced by the court.

31 (e) After a finding of guilt and prior to any final
32 sentencing, or an order for supervision, for an offense based
33 upon an arrest for a violation of this Section or a similar
34 provision of a local ordinance, individuals shall be required

1 to undergo a professional evaluation to determine if an
2 alcohol, drug, or intoxicating compound abuse problem exists
3 and the extent of the problem, and undergo the imposition of
4 treatment as appropriate. Programs conducting these
5 evaluations shall be licensed by the Department of Human
6 Services. The cost of any professional evaluation shall be paid
7 for by the individual required to undergo the professional
8 evaluation.

9 (e-1) Any person who is found guilty of or pleads guilty to
10 violating this Section, including any person receiving a
11 disposition of court supervision for violating this Section,
12 may be required by the Court to attend a victim impact panel
13 offered by, or under contract with, a County State's Attorney's
14 office, a probation and court services department, Mothers
15 Against Drunk Driving, or the Alliance Against Intoxicated
16 Motorists. All costs generated by the victim impact panel shall
17 be paid from fees collected from the offender or as may be
18 determined by the court.

19 (f) Every person found guilty of violating this Section,
20 whose operation of a motor vehicle while in violation of this
21 Section proximately caused any incident resulting in an
22 appropriate emergency response, shall be liable for the expense
23 of an emergency response as provided under Section 5-5-3 of the
24 Unified Code of Corrections.

25 (g) The Secretary of State shall revoke the driving
26 privileges of any person convicted under this Section or a
27 similar provision of a local ordinance.

28 (h) (Blank).

29 (i) The Secretary of State shall require the use of
30 ignition interlock devices on all vehicles owned by an
31 individual who has been convicted of a second or subsequent
32 offense of this Section or a similar provision of a local
33 ordinance. The Secretary shall establish by rule and regulation
34 the procedures for certification and use of the interlock

1 system.

2 (j) In addition to any other penalties and liabilities, a
3 person who is found guilty of or pleads guilty to violating
4 subsection (a), including any person placed on court
5 supervision for violating subsection (a), shall be fined \$500,
6 payable to the circuit clerk, who shall distribute the money as
7 follows: 20% to the law enforcement agency that made the arrest
8 and 80% shall be forwarded to the State Treasurer for deposit
9 into the General Revenue Fund. If the person has been
10 previously convicted of violating subsection (a) or a similar
11 provision of a local ordinance, the fine shall be \$1,000. In
12 the event that more than one agency is responsible for the
13 arrest, the amount payable to law enforcement agencies shall be
14 shared equally. Any moneys received by a law enforcement agency
15 under this subsection (j) shall be used to purchase law
16 enforcement equipment that will assist in the prevention of
17 alcohol related criminal violence throughout the State. This
18 shall include, but is not limited to, in-car video cameras,
19 radar and laser speed detection devices, and alcohol breath
20 testers. Any moneys received by the Department of State Police
21 under this subsection (j) shall be deposited into the State
22 Police DUI Fund and shall be used to purchase law enforcement
23 equipment that will assist in the prevention of alcohol related
24 criminal violence throughout the State.

25 (k) The Secretary of State Police DUI Fund is created as a
26 special fund in the State treasury. All moneys received by the
27 Secretary of State Police under subsection (j) of this Section
28 shall be deposited into the Secretary of State Police DUI Fund
29 and, subject to appropriation, shall be used to purchase law
30 enforcement equipment to assist in the prevention of alcohol
31 related criminal violence throughout the State.

32 (l) Whenever an individual is sentenced for an offense
33 based upon an arrest for a violation of subsection (a) or a
34 similar provision of a local ordinance, and the professional

1 evaluation recommends remedial or rehabilitative treatment or
2 education, neither the treatment nor the education shall be the
3 sole disposition and either or both may be imposed only in
4 conjunction with another disposition. The court shall monitor
5 compliance with any remedial education or treatment
6 recommendations contained in the professional evaluation.
7 Programs conducting alcohol or other drug evaluation or
8 remedial education must be licensed by the Department of Human
9 Services. If the individual is not a resident of Illinois,
10 however, the court may accept an alcohol or other drug
11 evaluation or remedial education program in the individual's
12 state of residence. Programs providing treatment must be
13 licensed under existing applicable alcoholism and drug
14 treatment licensure standards.

15 (m) In addition to any other fine or penalty required by
16 law, an individual convicted of a violation of subsection (a),
17 Section 5-7 of the Snowmobile Registration and Safety Act,
18 Section 5-16 of the Boat Registration and Safety Act, or a
19 similar provision, whose operation of a motor vehicle,
20 snowmobile, or watercraft while in violation of subsection (a),
21 Section 5-7 of the Snowmobile Registration and Safety Act,
22 Section 5-16 of the Boat Registration and Safety Act, or a
23 similar provision proximately caused an incident resulting in
24 an appropriate emergency response, shall be required to make
25 restitution to a public agency for the costs of that emergency
26 response. The restitution may not exceed \$1,000 per public
27 agency for each emergency response. As used in this subsection
28 (m), "emergency response" means any incident requiring a
29 response by a police officer, a firefighter carried on the
30 rolls of a regularly constituted fire department, or an
31 ambulance.

32 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
33 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
34 93-840, eff. 7-30-04; 94-114, eff. 1-1-06.)

1 (Text of Section from P.A. 94-116)

2 Sec. 11-501. Driving while under the influence of alcohol,
3 other drug or drugs, intoxicating compound or compounds or any
4 combination thereof.

5 (a) A person shall not drive or be in actual physical
6 control of any vehicle within this State while:

7 (1) the alcohol concentration in the person's blood or
8 breath is 0.08 or more based on the definition of blood and
9 breath units in Section 11-501.2;

10 (2) under the influence of alcohol;

11 (3) under the influence of any intoxicating compound or
12 combination of intoxicating compounds to a degree that
13 renders the person incapable of driving safely;

14 (4) under the influence of any other drug or
15 combination of drugs to a degree that renders the person
16 incapable of safely driving;

17 (5) under the combined influence of alcohol, other drug
18 or drugs, or intoxicating compound or compounds to a degree
19 that renders the person incapable of safely driving; or

20 (6) there is any amount of a drug, substance, or
21 compound in the person's breath, blood, or urine resulting
22 from the unlawful use or consumption of cannabis listed in
23 the Cannabis Control Act, a controlled substance listed in
24 the Illinois Controlled Substances Act, or an intoxicating
25 compound listed in the Use of Intoxicating Compounds Act.

26 (b) The fact that any person charged with violating this
27 Section is or has been legally entitled to use alcohol, other
28 drug or drugs, or intoxicating compound or compounds, or any
29 combination thereof, shall not constitute a defense against any
30 charge of violating this Section.

31 (b-1) With regard to penalties imposed under this Section:

32 (1) Any reference to a prior violation of subsection

33 (a) or a similar provision includes any violation of a

1 provision of a local ordinance or a provision of a law of
2 another state that is similar to a violation of subsection
3 (a) of this Section.

4 (2) Any penalty imposed for driving with a license that
5 has been revoked for a previous violation of subsection (a)
6 of this Section shall be in addition to the penalty imposed
7 for any subsequent violation of subsection (a).

8 (b-2) Except as otherwise provided in this Section, any
9 person convicted of violating subsection (a) of this Section is
10 guilty of a Class A misdemeanor.

11 (b-3) In addition to any other criminal or administrative
12 sanction for any second conviction of violating subsection (a)
13 or a similar provision committed within 5 years of a previous
14 violation of subsection (a) or a similar provision, the
15 defendant shall be sentenced to a mandatory minimum of 5 days
16 of imprisonment or assigned a mandatory minimum of 240 hours of
17 community service as may be determined by the court.

18 (b-4) In the case of a third violation committed within 5
19 years of a previous violation of subsection (a) or a similar
20 provision, the defendant is guilty of a Class 2 felony, and in
21 addition to any other criminal or administrative sanction, a
22 mandatory minimum term of either 10 days of imprisonment or 480
23 hours of community service shall be imposed.

24 (b-5) The imprisonment or assignment of community service
25 under subsections (b-3) and (b-4) shall not be subject to
26 suspension, nor shall the person be eligible for a reduced
27 sentence.

28 (c) (Blank).

29 (c-1) (1) A person who violates subsection (a) during a
30 period in which his or her driving privileges are revoked
31 or suspended, where the revocation or suspension was for a
32 violation of subsection (a), Section 11-501.1, paragraph
33 (b) of Section 11-401, or for reckless homicide as defined
34 in Section 9-3 of the Criminal Code of 1961 is guilty of a

1 Class 4 felony.

2 (2) A person who violates subsection (a) a third time
3 is guilty of a Class 2 felony.

4 (2.1) A person who violates subsection (a) a third
5 time, if the third violation occurs during a period in
6 which his or her driving privileges are revoked or
7 suspended where the revocation or suspension was for a
8 violation of subsection (a), Section 11-501.1, subsection
9 (b) of Section 11-401, or for reckless homicide as defined
10 in Section 9-3 of the Criminal Code of 1961, is guilty of a
11 Class 2 felony; and if the person receives a term of
12 probation or conditional discharge, he or she shall be
13 required to serve a mandatory minimum of 10 days of
14 imprisonment or shall be assigned a mandatory minimum of
15 480 hours of community service, as may be determined by the
16 court, as a condition of the probation or conditional
17 discharge. This mandatory minimum term of imprisonment or
18 assignment of community service shall not be suspended or
19 reduced by the court.

20 (2.2) A person who violates subsection (a), if the
21 violation occurs during a period in which his or her
22 driving privileges are revoked or suspended where the
23 revocation or suspension was for a violation of subsection
24 (a) or Section 11-501.1, shall also be sentenced to an
25 additional mandatory minimum term of 30 consecutive days of
26 imprisonment, 40 days of 24-hour periodic imprisonment, or
27 720 hours of community service, as may be determined by the
28 court. This mandatory term of imprisonment or assignment of
29 community service shall not be suspended or reduced by the
30 court.

31 (3) A person who violates subsection (a) a fourth time
32 is guilty of a Class 2 felony and is not eligible for a
33 sentence of probation or conditional discharge.

34 (4) A person who violates subsection (a) a fifth or

1 subsequent time is guilty of a Class 1 felony and is not
2 eligible for a sentence of probation or conditional
3 discharge.

4 (c-2) (Blank).

5 (c-3) (Blank).

6 (c-4) (Blank).

7 (c-5) A person who violates subsection (a), if the person
8 was transporting a person under the age of 16 at the time of
9 the violation, is subject to an additional mandatory minimum
10 fine of \$1,000, an additional mandatory minimum 140 hours of
11 community service, which shall include 40 hours of community
12 service in a program benefiting children, and an additional 2
13 days of imprisonment. The imprisonment or assignment of
14 community service under this subsection (c-5) is not subject to
15 suspension, nor is the person eligible for a reduced sentence.

16 (c-6) Except as provided in subsections (c-7) and (c-8) a
17 person who violates subsection (a) a second time, if at the
18 time of the second violation the person was transporting a
19 person under the age of 16, is subject to an additional 10 days
20 of imprisonment, an additional mandatory minimum fine of
21 \$1,000, and an additional mandatory minimum 140 hours of
22 community service, which shall include 40 hours of community
23 service in a program benefiting children. The imprisonment or
24 assignment of community service under this subsection (c-6) is
25 not subject to suspension, nor is the person eligible for a
26 reduced sentence.

27 (c-7) Except as provided in subsection (c-8), any person
28 convicted of violating subsection (c-6) or a similar provision
29 within 10 years of a previous violation of subsection (a) or a
30 similar provision shall receive, in addition to any other
31 penalty imposed, a mandatory minimum 12 days imprisonment, an
32 additional 40 hours of mandatory community service in a program
33 benefiting children, and a mandatory minimum fine of \$1,750.
34 The imprisonment or assignment of community service under this

1 subsection (c-7) is not subject to suspension, nor is the
2 person eligible for a reduced sentence.

3 (c-8) Any person convicted of violating subsection (c-6) or
4 a similar provision within 5 years of a previous violation of
5 subsection (a) or a similar provision shall receive, in
6 addition to any other penalty imposed, an additional 80 hours
7 of mandatory community service in a program benefiting
8 children, an additional mandatory minimum 12 days of
9 imprisonment, and a mandatory minimum fine of \$1,750. The
10 imprisonment or assignment of community service under this
11 subsection (c-8) is not subject to suspension, nor is the
12 person eligible for a reduced sentence.

13 (c-9) Any person convicted a third time for violating
14 subsection (a) or a similar provision, if at the time of the
15 third violation the person was transporting a person under the
16 age of 16, is guilty of a Class 2 felony and shall receive, in
17 addition to any other penalty imposed, an additional mandatory
18 fine of \$1,000, an additional mandatory 140 hours of community
19 service, which shall include 40 hours in a program benefiting
20 children, and a mandatory minimum 30 days of imprisonment. The
21 imprisonment or assignment of community service under this
22 subsection (c-9) is not subject to suspension, nor is the
23 person eligible for a reduced sentence.

24 (c-10) Any person convicted of violating subsection (c-9)
25 or a similar provision a third time within 20 years of a
26 previous violation of subsection (a) or a similar provision is
27 guilty of a Class 2 felony and shall receive, in addition to
28 any other penalty imposed, an additional mandatory 40 hours of
29 community service in a program benefiting children, an
30 additional mandatory fine of \$3,000, and a mandatory minimum
31 120 days of imprisonment. The imprisonment or assignment of
32 community service under this subsection (c-10) is not subject
33 to suspension, nor is the person eligible for a reduced
34 sentence.

1 (c-11) Any person convicted a fourth time for violating
2 subsection (a) or a similar provision, if at the time of the
3 fourth violation the person was transporting a person under the
4 age of 16, and if the person's 3 prior violations of subsection
5 (a) or a similar provision occurred while transporting a person
6 under the age of 16 or while the alcohol concentration in his
7 or her blood, breath, or urine was 0.16 or more based on the
8 definition of blood, breath, or urine units in Section
9 11-501.2, is guilty of a Class 2 felony, is not eligible for
10 probation or conditional discharge, and is subject to a minimum
11 fine of \$3,000.

12 (c-12) Any person convicted of a first violation of
13 subsection (a) or a similar provision, if the alcohol
14 concentration in his or her blood, breath, or urine was 0.16 or
15 more based on the definition of blood, breath, or urine units
16 in Section 11-501.2, shall be subject, in addition to any other
17 penalty that may be imposed, to a mandatory minimum of 100
18 hours of community service and a mandatory minimum fine of
19 \$500.

20 (c-13) Any person convicted of a second violation of
21 subsection (a) or a similar provision committed within 10 years
22 of a previous violation of subsection (a) or a similar
23 provision committed within 10 years of a previous violation of
24 subsection (a) or a similar provision, if at the time of the
25 second violation of subsection (a) the alcohol concentration in
26 his or her blood, breath, or urine was 0.16 or more based on
27 the definition of blood, breath, or urine units in Section
28 11-501.2, shall be subject, in addition to any other penalty
29 that may be imposed, to a mandatory minimum of 2 days of
30 imprisonment and a mandatory minimum fine of \$1,250.

31 (c-14) Any person convicted of a third violation of
32 subsection (a) or a similar provision within 20 years of a
33 previous violation of subsection (a) or a similar provision, if
34 at the time of the third violation of subsection (a) or a

1 similar provision the alcohol concentration in his or her
2 blood, breath, or urine was 0.16 or more based on the
3 definition of blood, breath, or urine units in Section
4 11-501.2, is guilty of a Class 2 felony and shall be subject,
5 in addition to any other penalty that may be imposed, to a
6 mandatory minimum of 90 days of imprisonment and a mandatory
7 minimum fine of \$2,500.

8 (c-15) Any person convicted of a fourth violation of
9 subsection (a) or a similar provision, if at the time of the
10 fourth violation the alcohol concentration in his or her blood,
11 breath, or urine was 0.16 or more based on the definition of
12 blood, breath, or urine units in Section 11-501.2, and if the
13 person's 3 prior violations of subsection (a) or a similar
14 provision occurred while transporting a person under the age of
15 16 or while the alcohol concentration in his or her blood,
16 breath, or urine was 0.16 or more based on the definition of
17 blood, breath, or urine units in Section 11-501.2, is guilty of
18 a Class 2 felony and is not eligible for a sentence of
19 probation or conditional discharge and is subject to a minimum
20 fine of \$2,500.

21 (d) (1) Every person convicted of committing a violation of
22 this Section shall be guilty of aggravated driving under
23 the influence of alcohol, other drug or drugs, or
24 intoxicating compound or compounds, or any combination
25 thereof if:

26 (A) the person committed a violation of subsection
27 (a) or a similar provision for the third or subsequent
28 time;

29 (B) the person committed a violation of subsection
30 (a) while driving a school bus with persons 18 years of
31 age or younger on board;

32 (C) the person in committing a violation of
33 subsection (a) was involved in a motor vehicle accident
34 that resulted in great bodily harm or permanent

1 disability or disfigurement to another, when the
2 violation was a proximate cause of the injuries;

3 (D) the person committed a violation of subsection
4 (a) for a second time and has been previously convicted
5 of violating Section 9-3 of the Criminal Code of 1961
6 or a similar provision of a law of another state
7 relating to reckless homicide in which the person was
8 determined to have been under the influence of alcohol,
9 other drug or drugs, or intoxicating compound or
10 compounds as an element of the offense or the person
11 has previously been convicted under subparagraph (C)
12 or subparagraph (F) of this paragraph (1); or

13 (E) the person, in committing a violation of
14 subsection (a) while driving at any speed in a school
15 speed zone at a time when a speed limit of 20 miles per
16 hour was in effect under subsection (a) of Section
17 11-605 of this Code, was involved in a motor vehicle
18 accident that resulted in bodily harm, other than great
19 bodily harm or permanent disability or disfigurement,
20 to another person, when the violation of subsection (a)
21 was a proximate cause of the bodily harm. ~~or~~

22 (F) (Blank). ~~the person, in committing a violation~~
23 ~~of subsection (a), was involved in a motor vehicle,~~
24 ~~snowmobile, all-terrain vehicle, or watercraft~~
25 ~~accident that resulted in the death of another person,~~
26 ~~when the violation of subsection (a) was a proximate~~
27 ~~cause of the death.~~

28 (2) Except as provided in this paragraph (2) and in
29 paragraphs (3) and (4) of subsection (c-1), a person
30 convicted of aggravated driving under the influence of
31 alcohol, other drug or drugs, or intoxicating compound or
32 compounds, or any combination thereof is guilty of a Class
33 4 felony. For a violation of subparagraph (C) of paragraph
34 (1) of this subsection (d), the defendant, if sentenced to

1 a term of imprisonment, shall be sentenced to not less than
2 one year nor more than 12 years. Except as provided in
3 paragraph (4) of subsection (c-1), aggravated driving
4 under the influence of alcohol, other drug, or drugs,
5 intoxicating compounds or compounds, or any combination
6 thereof as defined in subparagraph (A) of paragraph (1) of
7 this subsection (d) is a Class 2 felony. ~~Aggravated driving~~
8 ~~under the influence of alcohol, other drug or drugs, or~~
9 ~~intoxicating compound or compounds, or any combination~~
10 ~~thereof as defined in subparagraph (F) of paragraph (1) of~~
11 ~~this subsection (d) is a Class 2 felony, for which the~~
12 ~~defendant, if sentenced to a term of imprisonment, shall be~~
13 ~~sentenced to: (A) a term of imprisonment of not less than 3~~
14 ~~years and not more than 14 years if the violation resulted~~
15 ~~in the death of one person; or (B) a term of imprisonment~~
16 ~~of not less than 6 years and not more than 28 years if the~~
17 ~~violation resulted in the deaths of 2 or more persons. For~~
18 any prosecution under this subsection (d), a certified copy
19 of the driving abstract of the defendant shall be admitted
20 as proof of any prior conviction. Any person sentenced
21 under this subsection (d) who receives a term of probation
22 or conditional discharge must serve a minimum term of
23 either 480 hours of community service or 10 days of
24 imprisonment as a condition of the probation or conditional
25 discharge. This mandatory minimum term of imprisonment or
26 assignment of community service may not be suspended or
27 reduced by the court.

28 (e) After a finding of guilt and prior to any final
29 sentencing, or an order for supervision, for an offense based
30 upon an arrest for a violation of this Section or a similar
31 provision of a local ordinance, individuals shall be required
32 to undergo a professional evaluation to determine if an
33 alcohol, drug, or intoxicating compound abuse problem exists
34 and the extent of the problem, and undergo the imposition of

1 treatment as appropriate. Programs conducting these
2 evaluations shall be licensed by the Department of Human
3 Services. The cost of any professional evaluation shall be paid
4 for by the individual required to undergo the professional
5 evaluation.

6 (e-1) Any person who is found guilty of or pleads guilty to
7 violating this Section, including any person receiving a
8 disposition of court supervision for violating this Section,
9 may be required by the Court to attend a victim impact panel
10 offered by, or under contract with, a County State's Attorney's
11 office, a probation and court services department, Mothers
12 Against Drunk Driving, or the Alliance Against Intoxicated
13 Motorists. All costs generated by the victim impact panel shall
14 be paid from fees collected from the offender or as may be
15 determined by the court.

16 (f) Every person found guilty of violating this Section,
17 whose operation of a motor vehicle while in violation of this
18 Section proximately caused any incident resulting in an
19 appropriate emergency response, shall be liable for the expense
20 of an emergency response as provided under Section 5-5-3 of the
21 Unified Code of Corrections.

22 (g) The Secretary of State shall revoke the driving
23 privileges of any person convicted under this Section or a
24 similar provision of a local ordinance.

25 (h) (Blank).

26 (i) The Secretary of State shall require the use of
27 ignition interlock devices on all vehicles owned by an
28 individual who has been convicted of a second or subsequent
29 offense of this Section or a similar provision of a local
30 ordinance. The Secretary shall establish by rule and regulation
31 the procedures for certification and use of the interlock
32 system.

33 (j) In addition to any other penalties and liabilities, a
34 person who is found guilty of or pleads guilty to violating

1 subsection (a), including any person placed on court
2 supervision for violating subsection (a), shall be fined \$500,
3 payable to the circuit clerk, who shall distribute the money as
4 follows: 20% to the law enforcement agency that made the arrest
5 and 80% shall be forwarded to the State Treasurer for deposit
6 into the General Revenue Fund. If the person has been
7 previously convicted of violating subsection (a) or a similar
8 provision of a local ordinance, the fine shall be \$1,000. In
9 the event that more than one agency is responsible for the
10 arrest, the amount payable to law enforcement agencies shall be
11 shared equally. Any moneys received by a law enforcement agency
12 under this subsection (j) shall be used to purchase law
13 enforcement equipment that will assist in the prevention of
14 alcohol related criminal violence throughout the State. This
15 shall include, but is not limited to, in-car video cameras,
16 radar and laser speed detection devices, and alcohol breath
17 testers. Any moneys received by the Department of State Police
18 under this subsection (j) shall be deposited into the State
19 Police DUI Fund and shall be used to purchase law enforcement
20 equipment that will assist in the prevention of alcohol related
21 criminal violence throughout the State.

22 (k) The Secretary of State Police DUI Fund is created as a
23 special fund in the State treasury. All moneys received by the
24 Secretary of State Police under subsection (j) of this Section
25 shall be deposited into the Secretary of State Police DUI Fund
26 and, subject to appropriation, shall be used to purchase law
27 enforcement equipment to assist in the prevention of alcohol
28 related criminal violence throughout the State.

29 (l) Whenever an individual is sentenced for an offense
30 based upon an arrest for a violation of subsection (a) or a
31 similar provision of a local ordinance, and the professional
32 evaluation recommends remedial or rehabilitative treatment or
33 education, neither the treatment nor the education shall be the
34 sole disposition and either or both may be imposed only in

1 conjunction with another disposition. The court shall monitor
2 compliance with any remedial education or treatment
3 recommendations contained in the professional evaluation.
4 Programs conducting alcohol or other drug evaluation or
5 remedial education must be licensed by the Department of Human
6 Services. If the individual is not a resident of Illinois,
7 however, the court may accept an alcohol or other drug
8 evaluation or remedial education program in the individual's
9 state of residence. Programs providing treatment must be
10 licensed under existing applicable alcoholism and drug
11 treatment licensure standards.

12 (m) In addition to any other fine or penalty required by
13 law, an individual convicted of a violation of subsection (a),
14 Section 5-7 of the Snowmobile Registration and Safety Act,
15 Section 5-16 of the Boat Registration and Safety Act, or a
16 similar provision, whose operation of a motor vehicle,
17 snowmobile, or watercraft while in violation of subsection (a),
18 Section 5-7 of the Snowmobile Registration and Safety Act,
19 Section 5-16 of the Boat Registration and Safety Act, or a
20 similar provision proximately caused an incident resulting in
21 an appropriate emergency response, shall be required to make
22 restitution to a public agency for the costs of that emergency
23 response. The restitution may not exceed \$1,000 per public
24 agency for each emergency response. As used in this subsection
25 (m), "emergency response" means any incident requiring a
26 response by a police officer, a firefighter carried on the
27 rolls of a regularly constituted fire department, or an
28 ambulance.

29 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
30 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
31 93-840, eff. 7-30-04; 94-116, eff. 1-1-06.)

32 (Text of Section from P.A. 94-329)

33 Sec. 11-501. Driving while under the influence of alcohol,

1 other drug or drugs, intoxicating compound or compounds or any
2 combination thereof.

3 (a) A person shall not drive or be in actual physical
4 control of any vehicle within this State while:

5 (1) the alcohol concentration in the person's blood or
6 breath is 0.08 or more based on the definition of blood and
7 breath units in Section 11-501.2;

8 (2) under the influence of alcohol;

9 (3) under the influence of any intoxicating compound or
10 combination of intoxicating compounds to a degree that
11 renders the person incapable of driving safely;

12 (4) under the influence of any other drug or
13 combination of drugs to a degree that renders the person
14 incapable of safely driving;

15 (5) under the combined influence of alcohol, other drug
16 or drugs, or intoxicating compound or compounds to a degree
17 that renders the person incapable of safely driving; or

18 (6) there is any amount of a drug, substance, or
19 compound in the person's breath, blood, or urine resulting
20 from the unlawful use or consumption of cannabis listed in
21 the Cannabis Control Act, a controlled substance listed in
22 the Illinois Controlled Substances Act, or an intoxicating
23 compound listed in the Use of Intoxicating Compounds Act.

24 (b) The fact that any person charged with violating this
25 Section is or has been legally entitled to use alcohol, other
26 drug or drugs, or intoxicating compound or compounds, or any
27 combination thereof, shall not constitute a defense against any
28 charge of violating this Section.

29 (b-1) With regard to penalties imposed under this Section:

30 (1) Any reference to a prior violation of subsection
31 (a) or a similar provision includes any violation of a
32 provision of a local ordinance or a provision of a law of
33 another state that is similar to a violation of subsection
34 (a) of this Section.

1 (2) Any penalty imposed for driving with a license that
2 has been revoked for a previous violation of subsection (a)
3 of this Section shall be in addition to the penalty imposed
4 for any subsequent violation of subsection (a).

5 (b-2) Except as otherwise provided in this Section, any
6 person convicted of violating subsection (a) of this Section is
7 guilty of a Class A misdemeanor.

8 (b-3) In addition to any other criminal or administrative
9 sanction for any second conviction of violating subsection (a)
10 or a similar provision committed within 5 years of a previous
11 violation of subsection (a) or a similar provision, the
12 defendant shall be sentenced to a mandatory minimum of 5 days
13 of imprisonment or assigned a mandatory minimum of 240 hours of
14 community service as may be determined by the court.

15 (b-4) In the case of a third or subsequent violation
16 committed within 5 years of a previous violation of subsection
17 (a) or a similar provision, in addition to any other criminal
18 or administrative sanction, a mandatory minimum term of either
19 10 days of imprisonment or 480 hours of community service shall
20 be imposed.

21 (b-5) The imprisonment or assignment of community service
22 under subsections (b-3) and (b-4) shall not be subject to
23 suspension, nor shall the person be eligible for a reduced
24 sentence.

25 (c) (Blank).

26 (c-1) (1) A person who violates subsection (a) during a
27 period in which his or her driving privileges are revoked
28 or suspended, where the revocation or suspension was for a
29 violation of subsection (a), Section 11-501.1, paragraph
30 (b) of Section 11-401, or for reckless homicide as defined
31 in Section 9-3 of the Criminal Code of 1961 is guilty of
32 aggravated driving under the influence of alcohol, other
33 drug or drugs, intoxicating compound or compounds, or any
34 combination thereof and is guilty of a Class 4 felony.

1 (2) A person who violates subsection (a) a third time,
2 if the third violation occurs during a period in which his
3 or her driving privileges are revoked or suspended where
4 the revocation or suspension was for a violation of
5 subsection (a), Section 11-501.1, paragraph (b) of Section
6 11-401, or for reckless homicide as defined in Section 9-3
7 of the Criminal Code of 1961, is guilty of aggravated
8 driving under the influence of alcohol, other drug or
9 drugs, intoxicating compound or compounds, or any
10 combination thereof and is guilty of a Class 3 felony.

11 (2.1) A person who violates subsection (a) a third
12 time, if the third violation occurs during a period in
13 which his or her driving privileges are revoked or
14 suspended where the revocation or suspension was for a
15 violation of subsection (a), Section 11-501.1, subsection
16 (b) of Section 11-401, or for reckless homicide as defined
17 in Section 9-3 of the Criminal Code of 1961, is guilty of
18 aggravated driving under the influence of alcohol, other
19 drug or drugs, intoxicating compound or compounds, or any
20 combination thereof and is guilty of a Class 3 felony; and
21 if the person receives a term of probation or conditional
22 discharge, he or she shall be required to serve a mandatory
23 minimum of 10 days of imprisonment or shall be assigned a
24 mandatory minimum of 480 hours of community service, as may
25 be determined by the court, as a condition of the probation
26 or conditional discharge. This mandatory minimum term of
27 imprisonment or assignment of community service shall not
28 be suspended or reduced by the court.

29 (2.2) A person who violates subsection (a), if the
30 violation occurs during a period in which his or her
31 driving privileges are revoked or suspended where the
32 revocation or suspension was for a violation of subsection
33 (a) or Section 11-501.1, is guilty of aggravated driving
34 under the influence of alcohol, other drug or drugs,

1 intoxicating compound or compounds, or any combination
2 thereof and shall also be sentenced to an additional
3 mandatory minimum term of 30 consecutive days of
4 imprisonment, 40 days of 24-hour periodic imprisonment, or
5 720 hours of community service, as may be determined by the
6 court. This mandatory term of imprisonment or assignment of
7 community service shall not be suspended or reduced by the
8 court.

9 (3) A person who violates subsection (a) a fourth or
10 subsequent time, if the fourth or subsequent violation
11 occurs during a period in which his or her driving
12 privileges are revoked or suspended where the revocation or
13 suspension was for a violation of subsection (a), Section
14 11-501.1, paragraph (b) of Section 11-401, or for reckless
15 homicide as defined in Section 9-3 of the Criminal Code of
16 1961, is guilty of aggravated driving under the influence
17 of alcohol, other drug or drugs, intoxicating compound or
18 compounds, or any combination thereof and is guilty of a
19 Class 2 felony, and is not eligible for a sentence of
20 probation or conditional discharge.

21 (c-2) (Blank).

22 (c-3) (Blank).

23 (c-4) (Blank).

24 (c-5) A person who violates subsection (a), if the person
25 was transporting a person under the age of 16 at the time of
26 the violation, is subject to an additional mandatory minimum
27 fine of \$1,000, an additional mandatory minimum 140 hours of
28 community service, which shall include 40 hours of community
29 service in a program benefiting children, and an additional 2
30 days of imprisonment. The imprisonment or assignment of
31 community service under this subsection (c-5) is not subject to
32 suspension, nor is the person eligible for a reduced sentence.

33 (c-6) Except as provided in subsections (c-7) and (c-8) a
34 person who violates subsection (a) a second time, if at the

1 time of the second violation the person was transporting a
2 person under the age of 16, is subject to an additional 10 days
3 of imprisonment, an additional mandatory minimum fine of
4 \$1,000, and an additional mandatory minimum 140 hours of
5 community service, which shall include 40 hours of community
6 service in a program benefiting children. The imprisonment or
7 assignment of community service under this subsection (c-6) is
8 not subject to suspension, nor is the person eligible for a
9 reduced sentence.

10 (c-7) Except as provided in subsection (c-8), any person
11 convicted of violating subsection (c-6) or a similar provision
12 within 10 years of a previous violation of subsection (a) or a
13 similar provision shall receive, in addition to any other
14 penalty imposed, a mandatory minimum 12 days imprisonment, an
15 additional 40 hours of mandatory community service in a program
16 benefiting children, and a mandatory minimum fine of \$1,750.
17 The imprisonment or assignment of community service under this
18 subsection (c-7) is not subject to suspension, nor is the
19 person eligible for a reduced sentence.

20 (c-8) Any person convicted of violating subsection (c-6) or
21 a similar provision within 5 years of a previous violation of
22 subsection (a) or a similar provision shall receive, in
23 addition to any other penalty imposed, an additional 80 hours
24 of mandatory community service in a program benefiting
25 children, an additional mandatory minimum 12 days of
26 imprisonment, and a mandatory minimum fine of \$1,750. The
27 imprisonment or assignment of community service under this
28 subsection (c-8) is not subject to suspension, nor is the
29 person eligible for a reduced sentence.

30 (c-9) Any person convicted a third time for violating
31 subsection (a) or a similar provision, if at the time of the
32 third violation the person was transporting a person under the
33 age of 16, is guilty of a Class 4 felony and shall receive, in
34 addition to any other penalty imposed, an additional mandatory

1 fine of \$1,000, an additional mandatory 140 hours of community
2 service, which shall include 40 hours in a program benefiting
3 children, and a mandatory minimum 30 days of imprisonment. The
4 imprisonment or assignment of community service under this
5 subsection (c-9) is not subject to suspension, nor is the
6 person eligible for a reduced sentence.

7 (c-10) Any person convicted of violating subsection (c-9)
8 or a similar provision a third time within 20 years of a
9 previous violation of subsection (a) or a similar provision is
10 guilty of a Class 4 felony and shall receive, in addition to
11 any other penalty imposed, an additional mandatory 40 hours of
12 community service in a program benefiting children, an
13 additional mandatory fine of \$3,000, and a mandatory minimum
14 120 days of imprisonment. The imprisonment or assignment of
15 community service under this subsection (c-10) is not subject
16 to suspension, nor is the person eligible for a reduced
17 sentence.

18 (c-11) Any person convicted a fourth or subsequent time for
19 violating subsection (a) or a similar provision, if at the time
20 of the fourth or subsequent violation the person was
21 transporting a person under the age of 16, and if the person's
22 3 prior violations of subsection (a) or a similar provision
23 occurred while transporting a person under the age of 16 or
24 while the alcohol concentration in his or her blood, breath, or
25 urine was 0.16 or more based on the definition of blood,
26 breath, or urine units in Section 11-501.2, is guilty of a
27 Class 2 felony, is not eligible for probation or conditional
28 discharge, and is subject to a minimum fine of \$3,000.

29 (c-12) Any person convicted of a first violation of
30 subsection (a) or a similar provision, if the alcohol
31 concentration in his or her blood, breath, or urine was 0.16 or
32 more based on the definition of blood, breath, or urine units
33 in Section 11-501.2, shall be subject, in addition to any other
34 penalty that may be imposed, to a mandatory minimum of 100

1 hours of community service and a mandatory minimum fine of
2 \$500.

3 (c-13) Any person convicted of a second violation of
4 subsection (a) or a similar provision committed within 10 years
5 of a previous violation of subsection (a) or a similar
6 provision committed within 10 years of a previous violation of
7 subsection (a) or a similar provision, if at the time of the
8 second violation of subsection (a) the alcohol concentration in
9 his or her blood, breath, or urine was 0.16 or more based on
10 the definition of blood, breath, or urine units in Section
11 11-501.2, shall be subject, in addition to any other penalty
12 that may be imposed, to a mandatory minimum of 2 days of
13 imprisonment and a mandatory minimum fine of \$1,250.

14 (c-14) Any person convicted of a third violation of
15 subsection (a) or a similar provision within 20 years of a
16 previous violation of subsection (a) or a similar provision, if
17 at the time of the third violation of subsection (a) or a
18 similar provision the alcohol concentration in his or her
19 blood, breath, or urine was 0.16 or more based on the
20 definition of blood, breath, or urine units in Section
21 11-501.2, is guilty of a Class 4 felony and shall be subject,
22 in addition to any other penalty that may be imposed, to a
23 mandatory minimum of 90 days of imprisonment and a mandatory
24 minimum fine of \$2,500.

25 (c-15) Any person convicted of a fourth or subsequent
26 violation of subsection (a) or a similar provision, if at the
27 time of the fourth or subsequent violation the alcohol
28 concentration in his or her blood, breath, or urine was 0.16 or
29 more based on the definition of blood, breath, or urine units
30 in Section 11-501.2, and if the person's 3 prior violations of
31 subsection (a) or a similar provision occurred while
32 transporting a person under the age of 16 or while the alcohol
33 concentration in his or her blood, breath, or urine was 0.16 or
34 more based on the definition of blood, breath, or urine units

1 in Section 11-501.2, is guilty of a Class 2 felony and is not
2 eligible for a sentence of probation or conditional discharge
3 and is subject to a minimum fine of \$2,500.

4 (d) (1) Every person convicted of committing a violation of
5 this Section shall be guilty of aggravated driving under
6 the influence of alcohol, other drug or drugs, or
7 intoxicating compound or compounds, or any combination
8 thereof if:

9 (A) the person committed a violation of subsection
10 (a) or a similar provision for the third or subsequent
11 time;

12 (B) the person committed a violation of subsection
13 (a) while driving a school bus with persons 18 years of
14 age or younger on board;

15 (C) the person in committing a violation of
16 subsection (a) was involved in a motor vehicle accident
17 that resulted in great bodily harm or permanent
18 disability or disfigurement to another, when the
19 violation was a proximate cause of the injuries;

20 (D) the person committed a violation of subsection
21 (a) for a second time and has been previously convicted
22 of violating Section 9-3 of the Criminal Code of 1961
23 or a similar provision of a law of another state
24 relating to reckless homicide in which the person was
25 determined to have been under the influence of alcohol,
26 other drug or drugs, or intoxicating compound or
27 compounds as an element of the offense or the person
28 has previously been convicted under subparagraph (C)
29 or subparagraph (F) of this paragraph (1);

30 (E) the person, in committing a violation of
31 subsection (a) while driving at any speed in a school
32 speed zone at a time when a speed limit of 20 miles per
33 hour was in effect under subsection (a) of Section
34 11-605 of this Code, was involved in a motor vehicle

1 accident that resulted in bodily harm, other than great
2 bodily harm or permanent disability or disfigurement,
3 to another person, when the violation of subsection (a)
4 was a proximate cause of the bodily harm; ~~or~~

5 (F) (blank); ~~the person, in committing a violation~~
6 ~~of subsection (a), was involved in a motor vehicle,~~
7 ~~snowmobile, all terrain vehicle, or watercraft~~
8 ~~accident that resulted in the death of another person,~~
9 ~~when the violation of subsection (a) was a proximate~~
10 ~~cause of the death;~~

11 (G) the person committed the violation while he or
12 she did not possess a driver's license or permit or a
13 restricted driving permit or a judicial driving
14 permit; or

15 (H) the person committed the violation while he or
16 she knew or should have known that the vehicle he or
17 she was driving was not covered by a liability
18 insurance policy.

19 (2) Except as provided in this paragraph (2) and in
20 paragraphs (2), (2.1), and (3) of subsection (c-1), a
21 person convicted of aggravated driving under the influence
22 of alcohol, other drug or drugs, or intoxicating compound
23 or compounds, or any combination thereof is guilty of a
24 Class 4 felony. For a violation of subparagraph (C) of
25 paragraph (1) of this subsection (d), the defendant, if
26 sentenced to a term of imprisonment, shall be sentenced to
27 not less than one year nor more than 12 years. ~~Aggravated~~
28 ~~driving under the influence of alcohol, other drug or~~
29 ~~drugs, or intoxicating compound or compounds, or any~~
30 ~~combination thereof as defined in subparagraph (F) of~~
31 ~~paragraph (1) of this subsection (d) is a Class 2 felony,~~
32 ~~for which the defendant, if sentenced to a term of~~
33 ~~imprisonment, shall be sentenced to: (A) a term of~~
34 ~~imprisonment of not less than 3 years and not more than 14~~

1 ~~years if the violation resulted in the death of one person;~~
2 ~~or (B) a term of imprisonment of not less than 6 years and~~
3 ~~not more than 28 years if the violation resulted in the~~
4 ~~deaths of 2 or more persons.~~ For any prosecution under this
5 subsection (d), a certified copy of the driving abstract of
6 the defendant shall be admitted as proof of any prior
7 conviction. Any person sentenced under this subsection (d)
8 who receives a term of probation or conditional discharge
9 must serve a minimum term of either 480 hours of community
10 service or 10 days of imprisonment as a condition of the
11 probation or conditional discharge. This mandatory minimum
12 term of imprisonment or assignment of community service may
13 not be suspended or reduced by the court.

14 (e) After a finding of guilt and prior to any final
15 sentencing, or an order for supervision, for an offense based
16 upon an arrest for a violation of this Section or a similar
17 provision of a local ordinance, individuals shall be required
18 to undergo a professional evaluation to determine if an
19 alcohol, drug, or intoxicating compound abuse problem exists
20 and the extent of the problem, and undergo the imposition of
21 treatment as appropriate. Programs conducting these
22 evaluations shall be licensed by the Department of Human
23 Services. The cost of any professional evaluation shall be paid
24 for by the individual required to undergo the professional
25 evaluation.

26 (e-1) Any person who is found guilty of or pleads guilty to
27 violating this Section, including any person receiving a
28 disposition of court supervision for violating this Section,
29 may be required by the Court to attend a victim impact panel
30 offered by, or under contract with, a County State's Attorney's
31 office, a probation and court services department, Mothers
32 Against Drunk Driving, or the Alliance Against Intoxicated
33 Motorists. All costs generated by the victim impact panel shall
34 be paid from fees collected from the offender or as may be

1 determined by the court.

2 (f) Every person found guilty of violating this Section,
3 whose operation of a motor vehicle while in violation of this
4 Section proximately caused any incident resulting in an
5 appropriate emergency response, shall be liable for the expense
6 of an emergency response as provided under Section 5-5-3 of the
7 Unified Code of Corrections.

8 (g) The Secretary of State shall revoke the driving
9 privileges of any person convicted under this Section or a
10 similar provision of a local ordinance.

11 (h) (Blank).

12 (i) The Secretary of State shall require the use of
13 ignition interlock devices on all vehicles owned by an
14 individual who has been convicted of a second or subsequent
15 offense of this Section or a similar provision of a local
16 ordinance. The Secretary shall establish by rule and regulation
17 the procedures for certification and use of the interlock
18 system.

19 (j) In addition to any other penalties and liabilities, a
20 person who is found guilty of or pleads guilty to violating
21 subsection (a), including any person placed on court
22 supervision for violating subsection (a), shall be fined \$500,
23 payable to the circuit clerk, who shall distribute the money as
24 follows: 20% to the law enforcement agency that made the arrest
25 and 80% shall be forwarded to the State Treasurer for deposit
26 into the General Revenue Fund. If the person has been
27 previously convicted of violating subsection (a) or a similar
28 provision of a local ordinance, the fine shall be \$1,000. In
29 the event that more than one agency is responsible for the
30 arrest, the amount payable to law enforcement agencies shall be
31 shared equally. Any moneys received by a law enforcement agency
32 under this subsection (j) shall be used to purchase law
33 enforcement equipment that will assist in the prevention of
34 alcohol related criminal violence throughout the State. This

1 shall include, but is not limited to, in-car video cameras,
2 radar and laser speed detection devices, and alcohol breath
3 testers. Any moneys received by the Department of State Police
4 under this subsection (j) shall be deposited into the State
5 Police DUI Fund and shall be used to purchase law enforcement
6 equipment that will assist in the prevention of alcohol related
7 criminal violence throughout the State.

8 (k) The Secretary of State Police DUI Fund is created as a
9 special fund in the State treasury. All moneys received by the
10 Secretary of State Police under subsection (j) of this Section
11 shall be deposited into the Secretary of State Police DUI Fund
12 and, subject to appropriation, shall be used to purchase law
13 enforcement equipment to assist in the prevention of alcohol
14 related criminal violence throughout the State.

15 (l) Whenever an individual is sentenced for an offense
16 based upon an arrest for a violation of subsection (a) or a
17 similar provision of a local ordinance, and the professional
18 evaluation recommends remedial or rehabilitative treatment or
19 education, neither the treatment nor the education shall be the
20 sole disposition and either or both may be imposed only in
21 conjunction with another disposition. The court shall monitor
22 compliance with any remedial education or treatment
23 recommendations contained in the professional evaluation.
24 Programs conducting alcohol or other drug evaluation or
25 remedial education must be licensed by the Department of Human
26 Services. If the individual is not a resident of Illinois,
27 however, the court may accept an alcohol or other drug
28 evaluation or remedial education program in the individual's
29 state of residence. Programs providing treatment must be
30 licensed under existing applicable alcoholism and drug
31 treatment licensure standards.

32 (m) In addition to any other fine or penalty required by
33 law, an individual convicted of a violation of subsection (a),
34 Section 5-7 of the Snowmobile Registration and Safety Act,

1 Section 5-16 of the Boat Registration and Safety Act, or a
2 similar provision, whose operation of a motor vehicle,
3 snowmobile, or watercraft while in violation of subsection (a),
4 Section 5-7 of the Snowmobile Registration and Safety Act,
5 Section 5-16 of the Boat Registration and Safety Act, or a
6 similar provision proximately caused an incident resulting in
7 an appropriate emergency response, shall be required to make
8 restitution to a public agency for the costs of that emergency
9 response. The restitution may not exceed \$1,000 per public
10 agency for each emergency response. As used in this subsection
11 (m), "emergency response" means any incident requiring a
12 response by a police officer, a firefighter carried on the
13 rolls of a regularly constituted fire department, or an
14 ambulance.

15 (Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03;
16 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05;
17 93-840, eff. 7-30-04; 94-329, eff. 1-1-06.)

18 (625 ILCS 5/11-501.9 new)

19 Sec. 11-501.9. Homicide while driving under the influence
20 of alcohol, other drug or drugs, intoxicating compound or
21 compounds, or any combination thereof.

22 (a) A person violates this Section if:

23 (1) he or she violates Section 11-501 of the Illinois
24 Vehicle Code;

25 (2) in committing the violation, he or she was involved
26 in a motor vehicle, snowmobile, all terrain vehicle or
27 watercraft accident that resulted in the death of another
28 person; and

29 (3) the violation was a proximate cause of the death.

30 (b) Violation of this Section is a Class 2 felony, for
31 which the defendant, if sentenced to a term of imprisonment,
32 shall be sentenced to: (1) a term of imprisonment of not less
33 than 3 years and not more than 14 years if the violation

1 resulted in the death of one person; or (2) a term of
2 imprisonment of not less than 6 years and not more than 28
3 years if the violation resulted in the deaths of 2 or more
4 persons.

5 Section 10. The Juvenile Court Act of 1987 is amended by
6 changing Section 5-401.5 as follows:

7 (705 ILCS 405/5-401.5)

8 Sec. 5-401.5. When statements by minor may be used.

9 (a) In this Section, "custodial interrogation" means any
10 interrogation (i) during which a reasonable person in the
11 subject's position would consider himself or herself to be in
12 custody and (ii) during which a question is asked that is
13 reasonably likely to elicit an incriminating response.

14 In this Section, "electronic recording" includes motion
15 picture, audiotape, videotape, or digital recording.

16 In this Section, "place of detention" means a building or a
17 police station that is a place of operation for a municipal
18 police department or county sheriff department or other law
19 enforcement agency at which persons are or may be held in
20 detention in connection with criminal charges against those
21 persons or allegations that those persons are delinquent
22 minors.

23 (b) An oral, written, or sign language statement of a minor
24 who, at the time of the commission of the offense was under the
25 age of 17 years, made as a result of a custodial interrogation
26 conducted at a police station or other place of detention on or
27 after the effective date of this amendatory Act of the 93rd
28 General Assembly shall be presumed to be inadmissible as
29 evidence against the minor in any criminal proceeding or
30 juvenile court proceeding, for an act that if committed by an
31 adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1,
32 9-3, 9-3.2, or 9-3.3, of the Criminal Code of 1961 or under

1 Section 11-501.9 ~~clause (d)(1)(F) of Section 11-501~~ of the
2 Illinois Vehicle Code unless:

3 (1) an electronic recording is made of the custodial
4 interrogation; and

5 (2) the recording is substantially accurate and not
6 intentionally altered.

7 (c) Every electronic recording required under this Section
8 must be preserved until such time as the minor's adjudication
9 for any offense relating to the statement is final and all
10 direct and habeas corpus appeals are exhausted, or the
11 prosecution of such offenses is barred by law.

12 (d) If the court finds, by a preponderance of the evidence,
13 that the minor was subjected to a custodial interrogation in
14 violation of this Section, then any statements made by the
15 minor during or following that non-recorded custodial
16 interrogation, even if otherwise in compliance with this
17 Section, are presumed to be inadmissible in any criminal
18 proceeding or juvenile court proceeding against the minor
19 except for the purposes of impeachment.

20 (e) Nothing in this Section precludes the admission (i) of
21 a statement made by the minor in open court in any criminal
22 proceeding or juvenile court proceeding, before a grand jury,
23 or at a preliminary hearing, (ii) of a statement made during a
24 custodial interrogation that was not recorded as required by
25 this Section because electronic recording was not feasible,
26 (iii) of a voluntary statement, whether or not the result of a
27 custodial interrogation, that has a bearing on the credibility
28 of the accused as a witness, (iv) of a spontaneous statement
29 that is not made in response to a question, (v) of a statement
30 made after questioning that is routinely asked during the
31 processing of the arrest of the suspect, (vi) of a statement
32 made during a custodial interrogation by a suspect who
33 requests, prior to making the statement, to respond to the
34 interrogator's questions only if an electronic recording is not

1 made of the statement, provided that an electronic recording is
2 made of the statement of agreeing to respond to the
3 interrogator's question, only if a recording is not made of the
4 statement, (vii) of a statement made during a custodial
5 interrogation that is conducted out-of-state, (viii) of a
6 statement given at a time when the interrogators are unaware
7 that a death has in fact occurred, or (ix) of any other
8 statement that may be admissible under law. The State shall
9 bear the burden of proving, by a preponderance of the evidence,
10 that one of the exceptions described in this subsection (e) is
11 applicable. Nothing in this Section precludes the admission of
12 a statement, otherwise inadmissible under this Section, that is
13 used only for impeachment and not as substantive evidence.

14 (f) The presumption of inadmissibility of a statement made
15 by a suspect at a custodial interrogation at a police station
16 or other place of detention may be overcome by a preponderance
17 of the evidence that the statement was voluntarily given and is
18 reliable, based on the totality of the circumstances.

19 (g) Any electronic recording of any statement made by a
20 minor during a custodial interrogation that is compiled by any
21 law enforcement agency as required by this Section for the
22 purposes of fulfilling the requirements of this Section shall
23 be confidential and exempt from public inspection and copying,
24 as provided under Section 7 of the Freedom of Information Act,
25 and the information shall not be transmitted to anyone except
26 as needed to comply with this Section.

27 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05;
28 94-117, eff. 7-5-05.)

29 Section 15. The Criminal Code of 1961 is amended by
30 changing Section 9-3 as follows:

31 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

32 Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

1 (a) A person who unintentionally kills an individual
2 without lawful justification commits involuntary manslaughter
3 if his acts whether lawful or unlawful which cause the death
4 are such as are likely to cause death or great bodily harm to
5 some individual, and he performs them recklessly, except in
6 cases in which the cause of the death consists of the driving
7 of a motor vehicle or operating a snowmobile, all-terrain
8 vehicle, or watercraft, in which case, except as otherwise
9 provided in subsection (a-5), the person commits reckless
10 homicide. Except as otherwise provided in subsection (a-5), a A
11 person commits reckless homicide if he or she unintentionally
12 kills an individual while driving a vehicle and using an
13 incline in a roadway, such as a railroad crossing, bridge
14 approach, or hill, to cause the vehicle to become airborne.

15 (a-5) A person who otherwise would be guilty of reckless
16 homicide is instead guilty of violating Section 11-501.9 of the
17 Illinois Vehicle Code if he or she was under the influence of
18 alcohol, other drug or drugs, intoxicating compound or
19 compounds, or any combination thereof at the time of the
20 offense.

21 (b) (Blank).

22 (c) (Blank).

23 (d) Sentence.

24 (1) Involuntary manslaughter is a Class 3 felony.

25 (2) Reckless homicide is a Class 3 felony.

26 (e) (Blank).

27 (e-5) (Blank).

28 (e-7) Except as otherwise provided in subsection (e-8), in
29 cases involving reckless homicide in which the defendant was
30 driving in a construction or maintenance zone, as defined in
31 Section 11-605 of the Illinois Vehicle Code, the penalty is a
32 Class 2 felony, for which a person, if sentenced to a term of
33 imprisonment, shall be sentenced to a term of not less than 3
34 years and not more than 14 years.

1 (e-8) In cases involving reckless homicide in which the
2 defendant was driving in a construction or maintenance zone, as
3 defined in Section 11-605 of the Illinois Vehicle Code, and
4 caused the deaths of 2 or more persons as part of a single
5 course of conduct, the penalty is a Class 2 felony, for which a
6 person, if sentenced to a term of imprisonment, shall be
7 sentenced to a term of not less than 6 years and not more than
8 28 years.

9 (e-9) In cases involving reckless homicide in which the
10 defendant drove a vehicle and used an incline in a roadway,
11 such as a railroad crossing, bridge approach, or hill, to cause
12 the vehicle to become airborne, and caused the deaths of 2 or
13 more persons as part of a single course of conduct, the penalty
14 is a Class 2 felony.

15 (f) In cases involving involuntary manslaughter in which
16 the victim was a family or household member as defined in
17 paragraph (3) of Section 112A-3 of the Code of Criminal
18 Procedure of 1963, the penalty shall be a Class 2 felony, for
19 which a person if sentenced to a term of imprisonment, shall be
20 sentenced to a term of not less than 3 years and not more than
21 14 years.

22 (Source: P.A. 92-16, eff. 6-28-01; 93-178, eff. 6-1-04; 93-213,
23 eff. 7-18-03; 93-682, eff. 1-1-05.)

24 Section 20. The Code of Criminal Procedure of 1963 is
25 amended by changing Section 103-2.1 as follows:

26 (725 ILCS 5/103-2.1)

27 Sec. 103-2.1. When statements by accused may be used.

28 (a) In this Section, "custodial interrogation" means any
29 interrogation during which (i) a reasonable person in the
30 subject's position would consider himself or herself to be in
31 custody and (ii) during which a question is asked that is
32 reasonably likely to elicit an incriminating response.

1 In this Section, "place of detention" means a building or a
2 police station that is a place of operation for a municipal
3 police department or county sheriff department or other law
4 enforcement agency, not a courthouse, that is owned or operated
5 by a law enforcement agency at which persons are or may be held
6 in detention in connection with criminal charges against those
7 persons.

8 In this Section, "electronic recording" includes motion
9 picture, audiotape, or videotape, or digital recording.

10 (b) An oral, written, or sign language statement of an
11 accused made as a result of a custodial interrogation at a
12 police station or other place of detention shall be presumed to
13 be inadmissible as evidence against the accused in any criminal
14 proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
15 9-3.2, or 9-3.3 of the Criminal Code of 1961 or under Section
16 11-501.9 ~~clause (d) (1) (F) of Section 11-501~~ of the Illinois
17 Vehicle Code unless:

18 (1) an electronic recording is made of the custodial
19 interrogation; and

20 (2) the recording is substantially accurate and not
21 intentionally altered.

22 (c) Every electronic recording required under this Section
23 must be preserved until such time as the defendant's conviction
24 for any offense relating to the statement is final and all
25 direct and habeas corpus appeals are exhausted, or the
26 prosecution of such offenses is barred by law.

27 (d) If the court finds, by a preponderance of the evidence,
28 that the defendant was subjected to a custodial interrogation
29 in violation of this Section, then any statements made by the
30 defendant during or following that non-recorded custodial
31 interrogation, even if otherwise in compliance with this
32 Section, are presumed to be inadmissible in any criminal
33 proceeding against the defendant except for the purposes of
34 impeachment.

1 (e) Nothing in this Section precludes the admission (i) of
2 a statement made by the accused in open court at his or her
3 trial, before a grand jury, or at a preliminary hearing, (ii)
4 of a statement made during a custodial interrogation that was
5 not recorded as required by this Section, because electronic
6 recording was not feasible, (iii) of a voluntary statement,
7 whether or not the result of a custodial interrogation, that
8 has a bearing on the credibility of the accused as a witness,
9 (iv) of a spontaneous statement that is not made in response to
10 a question, (v) of a statement made after questioning that is
11 routinely asked during the processing of the arrest of the
12 suspect, (vi) of a statement made during a custodial
13 interrogation by a suspect who requests, prior to making the
14 statement, to respond to the interrogator's questions only if
15 an electronic recording is not made of the statement, provided
16 that an electronic recording is made of the statement of
17 agreeing to respond to the interrogator's question, only if a
18 recording is not made of the statement, (vii) of a statement
19 made during a custodial interrogation that is conducted
20 out-of-state, (viii) of a statement given at a time when the
21 interrogators are unaware that a death has in fact occurred, or
22 (ix) of any other statement that may be admissible under law.
23 The State shall bear the burden of proving, by a preponderance
24 of the evidence, that one of the exceptions described in this
25 subsection (e) is applicable. Nothing in this Section precludes
26 the admission of a statement, otherwise inadmissible under this
27 Section, that is used only for impeachment and not as
28 substantive evidence.

29 (f) The presumption of inadmissibility of a statement made
30 by a suspect at a custodial interrogation at a police station
31 or other place of detention may be overcome by a preponderance
32 of the evidence that the statement was voluntarily given and is
33 reliable, based on the totality of the circumstances.

34 (g) Any electronic recording of any statement made by an

1 accused during a custodial interrogation that is compiled by
2 any law enforcement agency as required by this Section for the
3 purposes of fulfilling the requirements of this Section shall
4 be confidential and exempt from public inspection and copying,
5 as provided under Section 7 of the Freedom of Information Act,
6 and the information shall not be transmitted to anyone except
7 as needed to comply with this Section.

8 (Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05;
9 94-117, eff. 7-5-05.)

10 Section 25. The Unified Code of Corrections is amended by
11 changing Sections 3-6-3 and 5-4-1 as follows:

12 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

13 Sec. 3-6-3. Rules and Regulations for Early Release.

14 (a) (1) The Department of Corrections shall prescribe
15 rules and regulations for the early release on account of
16 good conduct of persons committed to the Department which
17 shall be subject to review by the Prisoner Review Board.

18 (2) The rules and regulations on early release shall
19 provide, with respect to offenses listed in clause (i),
20 (ii), or (iii) of this paragraph (2) committed on or after
21 June 19, 1998 or with respect to the offense listed in
22 clause (iv) of this paragraph (2) committed on or after
23 June 23, 2005 (the effective date of Public Act 94-71) ~~this~~
24 ~~amendatory Act of the 94th General Assembly~~ or with respect
25 to the offense of being an armed habitual criminal
26 committed on or after August 2, 2005 (the effective date of
27 Public Act 94-398) ~~this amendatory Act of the 94th General~~
28 ~~Assembly~~, the following:

29 (i) that a prisoner who is serving a term of
30 imprisonment for first degree murder or for the offense
31 of terrorism shall receive no good conduct credit and
32 shall serve the entire sentence imposed by the court;

1 (ii) that a prisoner serving a sentence for attempt
2 to commit first degree murder, solicitation of murder,
3 solicitation of murder for hire, intentional homicide
4 of an unborn child, predatory criminal sexual assault
5 of a child, aggravated criminal sexual assault,
6 criminal sexual assault, aggravated kidnapping,
7 aggravated battery with a firearm, heinous battery,
8 being an armed habitual criminal, aggravated battery
9 of a senior citizen, or aggravated battery of a child
10 shall receive no more than 4.5 days of good conduct
11 credit for each month of his or her sentence of
12 imprisonment;

13 (iii) that a prisoner serving a sentence for home
14 invasion, armed robbery, aggravated vehicular
15 hijacking, aggravated discharge of a firearm, or armed
16 violence with a category I weapon or category II
17 weapon, when the court has made and entered a finding,
18 pursuant to subsection (c-1) of Section 5-4-1 of this
19 Code, that the conduct leading to conviction for the
20 enumerated offense resulted in great bodily harm to a
21 victim, shall receive no more than 4.5 days of good
22 conduct credit for each month of his or her sentence of
23 imprisonment; and

24 (iv) that a prisoner serving a sentence for
25 aggravated discharge of a firearm, whether or not the
26 conduct leading to conviction for the offense resulted
27 in great bodily harm to the victim, shall receive no
28 more than 4.5 days of good conduct credit for each
29 month of his or her sentence of imprisonment.

30 (2.1) For all offenses, other than those enumerated in
31 subdivision (a) (2) (i), (ii), or (iii) committed on or after
32 June 19, 1998 or subdivision (a) (2) (iv) committed on or
33 after June 23, 2005 (the effective date of Public Act
34 94-71) ~~this amendatory Act of the 94th General Assembly,~~

1 and other than the offense of reckless homicide as defined
2 in subsection (e) of Section 9-3 of the Criminal Code of
3 1961 committed on or after January 1, 1999, or aggravated
4 driving under the influence of alcohol, other drug or
5 drugs, or intoxicating compound or compounds, or any
6 combination thereof as defined in subparagraph (F) of
7 paragraph (1) of subsection (d) of Section 11-501 of the
8 Illinois Vehicle Code, the rules and regulations shall
9 provide that a prisoner who is serving a term of
10 imprisonment shall receive one day of good conduct credit
11 for each day of his or her sentence of imprisonment or
12 recommitment under Section 3-3-9. Each day of good conduct
13 credit shall reduce by one day the prisoner's period of
14 imprisonment or recommitment under Section 3-3-9.

15 (2.2) A prisoner serving a term of natural life
16 imprisonment or a prisoner who has been sentenced to death
17 shall receive no good conduct credit.

18 (2.3) The rules and regulations on early release shall
19 provide that a prisoner who is serving a sentence for
20 reckless homicide as defined in subsection (e) of Section
21 9-3 of the Criminal Code of 1961 committed on or after
22 January 1, 1999, or aggravated driving under the influence
23 of alcohol, other drug or drugs, or intoxicating compound
24 or compounds, or any combination thereof as defined in
25 subparagraph (F) of paragraph (1) of subsection (d) of
26 Section 11-501 of the Illinois Vehicle Code, shall receive
27 no more than 4.5 days of good conduct credit for each month
28 of his or her sentence of imprisonment.

29 (2.4) The rules and regulations on early release shall
30 provide with respect to the offenses of aggravated battery
31 with a machine gun or a firearm equipped with any device or
32 attachment designed or used for silencing the report of a
33 firearm or aggravated discharge of a machine gun or a
34 firearm equipped with any device or attachment designed or

1 used for silencing the report of a firearm, committed on or
2 after July 15, 1999 (the effective date of Public Act
3 91-121), that a prisoner serving a sentence for any of
4 these offenses shall receive no more than 4.5 days of good
5 conduct credit for each month of his or her sentence of
6 imprisonment.

7 (2.5) The rules and regulations on early release shall
8 provide that a prisoner who is serving a sentence for
9 aggravated arson committed on or after July 27, 2001 (the
10 effective date of Public Act 92-176) shall receive no more
11 than 4.5 days of good conduct credit for each month of his
12 or her sentence of imprisonment.

13 (3) The rules and regulations shall also provide that
14 the Director may award up to 180 days additional good
15 conduct credit for meritorious service in specific
16 instances as the Director deems proper; except that no more
17 than 90 days of good conduct credit for meritorious service
18 shall be awarded to any prisoner who is serving a sentence
19 for conviction of first degree murder, reckless homicide
20 while under the influence of alcohol or any other drug, or
21 aggravated driving under the influence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds, or
23 any combination thereof as defined in subparagraph (F) of
24 paragraph (1) of subsection (d) of Section 11-501 of the
25 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
26 predatory criminal sexual assault of a child, aggravated
27 criminal sexual assault, criminal sexual assault, deviate
28 sexual assault, aggravated criminal sexual abuse,
29 aggravated indecent liberties with a child, indecent
30 liberties with a child, child pornography, heinous
31 battery, aggravated battery of a spouse, aggravated
32 battery of a spouse with a firearm, stalking, aggravated
33 stalking, aggravated battery of a child, endangering the
34 life or health of a child, cruelty to a child, or narcotic

1 racketeering. Notwithstanding the foregoing, good conduct
2 credit for meritorious service shall not be awarded on a
3 sentence of imprisonment imposed for conviction of: (i) one
4 of the offenses enumerated in subdivision (a)(2)(i), (ii),
5 or (iii) when the offense is committed on or after June 19,
6 1998 or subdivision (a)(2)(iv) when the offense is
7 committed on or after June 23, 2005 (the effective date of
8 Public Act 94-71) ~~this amendatory Act of the 94th General~~
9 ~~Assembly~~, (ii) reckless homicide as defined in subsection
10 (e) of Section 9-3 of the Criminal Code of 1961 when the
11 offense is committed on or after January 1, 1999, or
12 aggravated driving under the influence of alcohol, other
13 drug or drugs, or intoxicating compound or compounds, or
14 any combination thereof as defined in subparagraph (F) of
15 paragraph (1) of subsection (d) of Section 11-501 of the
16 Illinois Vehicle Code, (iii) one of the offenses enumerated
17 in subdivision (a)(2.4) when the offense is committed on or
18 after July 15, 1999 (the effective date of Public Act
19 91-121), or (iv) aggravated arson when the offense is
20 committed on or after July 27, 2001 (the effective date of
21 Public Act 92-176).

22 (4) The rules and regulations shall also provide that
23 the good conduct credit accumulated and retained under
24 paragraph (2.1) of subsection (a) of this Section by any
25 inmate during specific periods of time in which such inmate
26 is engaged full-time in substance abuse programs,
27 correctional industry assignments, or educational programs
28 provided by the Department under this paragraph (4) and
29 satisfactorily completes the assigned program as
30 determined by the standards of the Department, shall be
31 multiplied by a factor of 1.25 for program participation
32 before August 11, 1993 and 1.50 for program participation
33 on or after that date. However, no inmate shall be eligible
34 for the additional good conduct credit under this paragraph

1 (4) or (4.1) of this subsection (a) while assigned to a
2 boot camp, or electronic detention, or if convicted of an
3 offense enumerated in subdivision (a)(2)(i), (ii), or
4 (iii) of this Section that is committed on or after June
5 19, 1998 or subdivision (a)(2)(iv) of this Section that is
6 committed on or after June 23, 2005 (the effective date of
7 Public Act 94-71) ~~this amendatory Act of the 94th General~~
8 ~~Assembly~~, or if convicted of reckless homicide as defined
9 in subsection (e) of Section 9-3 of the Criminal Code of
10 1961 if the offense is committed on or after January 1,
11 1999, or homicide while aggravated driving under the
12 influence of alcohol, other drug or drugs, or intoxicating
13 compound or compounds, or any combination thereof as
14 defined in Section 11-501.9 ~~subparagraph (F) of paragraph~~
15 ~~(1) of subsection (d) of Section 11-501~~ of the Illinois
16 Vehicle Code, or if convicted of an offense enumerated in
17 paragraph (a)(2.4) of this Section that is committed on or
18 after July 15, 1999 (the effective date of Public Act
19 91-121), or first degree murder, a Class X felony, criminal
20 sexual assault, felony criminal sexual abuse, aggravated
21 criminal sexual abuse, aggravated battery with a firearm,
22 or any predecessor or successor offenses with the same or
23 substantially the same elements, or any inchoate offenses
24 relating to the foregoing offenses. No inmate shall be
25 eligible for the additional good conduct credit under this
26 paragraph (4) who (i) has previously received increased
27 good conduct credit under this paragraph (4) and has
28 subsequently been convicted of a felony, or (ii) has
29 previously served more than one prior sentence of
30 imprisonment for a felony in an adult correctional
31 facility.

32 Educational, vocational, substance abuse and
33 correctional industry programs under which good conduct
34 credit may be increased under this paragraph (4) and

1 paragraph (4.1) of this subsection (a) shall be evaluated
2 by the Department on the basis of documented standards. The
3 Department shall report the results of these evaluations to
4 the Governor and the General Assembly by September 30th of
5 each year. The reports shall include data relating to the
6 recidivism rate among program participants.

7 Availability of these programs shall be subject to the
8 limits of fiscal resources appropriated by the General
9 Assembly for these purposes. Eligible inmates who are
10 denied immediate admission shall be placed on a waiting
11 list under criteria established by the Department. The
12 inability of any inmate to become engaged in any such
13 programs by reason of insufficient program resources or for
14 any other reason established under the rules and
15 regulations of the Department shall not be deemed a cause
16 of action under which the Department or any employee or
17 agent of the Department shall be liable for damages to the
18 inmate.

19 (4.1) The rules and regulations shall also provide that
20 an additional 60 days of good conduct credit shall be
21 awarded to any prisoner who passes the high school level
22 Test of General Educational Development (GED) and receives
23 a GED certificate while the prisoner is incarcerated. The
24 good conduct credit awarded under this paragraph (4.1)
25 shall be in addition to, and shall not affect, the award of
26 good conduct under any other paragraph of this Section, but
27 shall also be pursuant to the guidelines and restrictions
28 set forth in paragraph (4) of subsection (a) of this
29 Section.

30 (4.5) The rules and regulations on early release shall
31 also provide that when the court's sentencing order
32 recommends a prisoner for substance abuse treatment and the
33 crime was committed on or after September 1, 2003 (the
34 effective date of Public Act 93-354), the prisoner shall

1 receive no good conduct credit awarded under clause (3) of
2 this subsection (a) unless he or she participates in and
3 completes a substance abuse treatment program. The
4 Director may waive the requirement to participate in or
5 complete a substance abuse treatment program and award the
6 good conduct credit in specific instances if the prisoner
7 is not a good candidate for a substance abuse treatment
8 program for medical, programming, or operational reasons.
9 Availability of substance abuse treatment shall be subject
10 to the limits of fiscal resources appropriated by the
11 General Assembly for these purposes. If treatment is not
12 available and the requirement to participate and complete
13 the treatment has not been waived by the Director, the
14 prisoner shall be placed on a waiting list under criteria
15 established by the Department. The Director may allow a
16 prisoner placed on a waiting list to participate in and
17 complete a substance abuse education class or attend
18 substance abuse self-help meetings in lieu of a substance
19 abuse treatment program. A prisoner on a waiting list who
20 is not placed in a substance abuse program prior to release
21 may be eligible for a waiver and receive good conduct
22 credit under clause (3) of this subsection (a) at the
23 discretion of the Director.

24 (5) Whenever the Department is to release any inmate
25 earlier than it otherwise would because of a grant of good
26 conduct credit for meritorious service given at any time
27 during the term, the Department shall give reasonable
28 advance notice of the impending release to the State's
29 Attorney of the county where the prosecution of the inmate
30 took place.

31 (b) Whenever a person is or has been committed under
32 several convictions, with separate sentences, the sentences
33 shall be construed under Section 5-8-4 in granting and
34 forfeiting of good time.

1 (c) The Department shall prescribe rules and regulations
2 for revoking good conduct credit, or suspending or reducing the
3 rate of accumulation of good conduct credit for specific rule
4 violations, during imprisonment. These rules and regulations
5 shall provide that no inmate may be penalized more than one
6 year of good conduct credit for any one infraction.

7 When the Department seeks to revoke, suspend or reduce the
8 rate of accumulation of any good conduct credits for an alleged
9 infraction of its rules, it shall bring charges therefor
10 against the prisoner sought to be so deprived of good conduct
11 credits before the Prisoner Review Board as provided in
12 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
13 amount of credit at issue exceeds 30 days or when during any 12
14 month period, the cumulative amount of credit revoked exceeds
15 30 days except where the infraction is committed or discovered
16 within 60 days of scheduled release. In those cases, the
17 Department of Corrections may revoke up to 30 days of good
18 conduct credit. The Board may subsequently approve the
19 revocation of additional good conduct credit, if the Department
20 seeks to revoke good conduct credit in excess of 30 days.
21 However, the Board shall not be empowered to review the
22 Department's decision with respect to the loss of 30 days of
23 good conduct credit within any calendar year for any prisoner
24 or to increase any penalty beyond the length requested by the
25 Department.

26 The Director of the Department of Corrections, in
27 appropriate cases, may restore up to 30 days good conduct
28 credits which have been revoked, suspended or reduced. Any
29 restoration of good conduct credits in excess of 30 days shall
30 be subject to review by the Prisoner Review Board. However, the
31 Board may not restore good conduct credit in excess of the
32 amount requested by the Director.

33 Nothing contained in this Section shall prohibit the
34 Prisoner Review Board from ordering, pursuant to Section

1 3-3-9(a) (3) (i) (B), that a prisoner serve up to one year of the
2 sentence imposed by the court that was not served due to the
3 accumulation of good conduct credit.

4 (d) If a lawsuit is filed by a prisoner in an Illinois or
5 federal court against the State, the Department of Corrections,
6 or the Prisoner Review Board, or against any of their officers
7 or employees, and the court makes a specific finding that a
8 pleading, motion, or other paper filed by the prisoner is
9 frivolous, the Department of Corrections shall conduct a
10 hearing to revoke up to 180 days of good conduct credit by
11 bringing charges against the prisoner sought to be deprived of
12 the good conduct credits before the Prisoner Review Board as
13 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.
14 If the prisoner has not accumulated 180 days of good conduct
15 credit at the time of the finding, then the Prisoner Review
16 Board may revoke all good conduct credit accumulated by the
17 prisoner.

18 For purposes of this subsection (d):

19 (1) "Frivolous" means that a pleading, motion, or other
20 filing which purports to be a legal document filed by a
21 prisoner in his or her lawsuit meets any or all of the
22 following criteria:

23 (A) it lacks an arguable basis either in law or in
24 fact;

25 (B) it is being presented for any improper purpose,
26 such as to harass or to cause unnecessary delay or
27 needless increase in the cost of litigation;

28 (C) the claims, defenses, and other legal
29 contentions therein are not warranted by existing law
30 or by a nonfrivolous argument for the extension,
31 modification, or reversal of existing law or the
32 establishment of new law;

33 (D) the allegations and other factual contentions
34 do not have evidentiary support or, if specifically so

1 identified, are not likely to have evidentiary support
2 after a reasonable opportunity for further
3 investigation or discovery; or

4 (E) the denials of factual contentions are not
5 warranted on the evidence, or if specifically so
6 identified, are not reasonably based on a lack of
7 information or belief.

8 (2) "Lawsuit" means a petition for post-conviction
9 relief under Article 122 of the Code of Criminal Procedure
10 of 1963, a motion pursuant to Section 116-3 of the Code of
11 Criminal Procedure of 1963, a habeas corpus action under
12 Article X of the Code of Civil Procedure or under federal
13 law (28 U.S.C. 2254), a petition for claim under the Court
14 of Claims Act or an action under the federal Civil Rights
15 Act (42 U.S.C. 1983).

16 (e) Nothing in Public Act 90-592 or 90-593 affects the
17 validity of Public Act 89-404.

18 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,
19 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
20 eff. 8-2-05; 94-491, eff. 8-8-05; revised 8-19-05.)

21 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

22 Sec. 5-4-1. Sentencing Hearing.

23 (a) Except when the death penalty is sought under hearing
24 procedures otherwise specified, after a determination of
25 guilt, a hearing shall be held to impose the sentence. However,
26 prior to the imposition of sentence on an individual being
27 sentenced for an offense based upon a charge for a violation of
28 Section 11-501 of the Illinois Vehicle Code or a similar
29 provision of a local ordinance, the individual must undergo a
30 professional evaluation to determine if an alcohol or other
31 drug abuse problem exists and the extent of such a problem.
32 Programs conducting these evaluations shall be licensed by the
33 Department of Human Services. However, if the individual is not

1 a resident of Illinois, the court may, in its discretion,
2 accept an evaluation from a program in the state of such
3 individual's residence. The court may in its sentencing order
4 approve an eligible defendant for placement in a Department of
5 Corrections impact incarceration program as provided in
6 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
7 order recommend a defendant for placement in a Department of
8 Corrections substance abuse treatment program as provided in
9 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
10 upon the defendant being accepted in a program by the
11 Department of Corrections. At the hearing the court shall:

12 (1) consider the evidence, if any, received upon the
13 trial;

14 (2) consider any presentence reports;

15 (3) consider the financial impact of incarceration
16 based on the financial impact statement filed with the
17 clerk of the court by the Department of Corrections;

18 (4) consider evidence and information offered by the
19 parties in aggravation and mitigation;

20 (4.5) consider substance abuse treatment, eligibility
21 screening, and an assessment, if any, of the defendant by
22 an agent designated by the State of Illinois to provide
23 assessment services for the Illinois courts;

24 (5) hear arguments as to sentencing alternatives;

25 (6) afford the defendant the opportunity to make a
26 statement in his own behalf;

27 (7) afford the victim of a violent crime or a violation
28 of Section 11-501 of the Illinois Vehicle Code, or a
29 similar provision of a local ordinance, or a qualified
30 individual affected by: (i) a violation of Section 405,
31 405.1, 405.2, or 407 of the Illinois Controlled Substances
32 Act or a violation of Section 55 or Section 65 of the
33 Methamphetamine Control and Community Protection Act, or
34 (ii) a Class 4 felony violation of Section 11-14, 11-15,

1 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of
2 1961, committed by the defendant the opportunity to make a
3 statement concerning the impact on the victim and to offer
4 evidence in aggravation or mitigation; provided that the
5 statement and evidence offered in aggravation or
6 mitigation must first be prepared in writing in conjunction
7 with the State's Attorney before it may be presented orally
8 at the hearing. Any sworn testimony offered by the victim
9 is subject to the defendant's right to cross-examine. All
10 statements and evidence offered under this paragraph (7)
11 shall become part of the record of the court. For the
12 purpose of this paragraph (7), "qualified individual"
13 means any person who (i) lived or worked within the
14 territorial jurisdiction where the offense took place when
15 the offense took place; and (ii) is familiar with various
16 public places within the territorial jurisdiction where
17 the offense took place when the offense took place. For the
18 purposes of this paragraph (7), "qualified individual"
19 includes any peace officer, or any member of any duly
20 organized State, county, or municipal peace unit assigned
21 to the territorial jurisdiction where the offense took
22 place when the offense took place;

23 (8) in cases of reckless homicide afford the victim's
24 spouse, guardians, parents or other immediate family
25 members an opportunity to make oral statements; and

26 (9) in cases involving a felony sex offense as defined
27 under the Sex Offender Management Board Act, consider the
28 results of the sex offender evaluation conducted pursuant
29 to Section 5-3-2 of this Act.

30 (b) All sentences shall be imposed by the judge based upon
31 his independent assessment of the elements specified above and
32 any agreement as to sentence reached by the parties. The judge
33 who presided at the trial or the judge who accepted the plea of
34 guilty shall impose the sentence unless he is no longer sitting

1 as a judge in that court. Where the judge does not impose
2 sentence at the same time on all defendants who are convicted
3 as a result of being involved in the same offense, the
4 defendant or the State's Attorney may advise the sentencing
5 court of the disposition of any other defendants who have been
6 sentenced.

7 (c) In imposing a sentence for a violent crime or for an
8 offense of operating or being in physical control of a vehicle
9 while under the influence of alcohol, any other drug or any
10 combination thereof, or a similar provision of a local
11 ordinance, when such offense resulted in the personal injury to
12 someone other than the defendant, the trial judge shall specify
13 on the record the particular evidence, information, factors in
14 mitigation and aggravation or other reasons that led to his
15 sentencing determination. The full verbatim record of the
16 sentencing hearing shall be filed with the clerk of the court
17 and shall be a public record.

18 (c-1) In imposing a sentence for the offense of aggravated
19 kidnapping for ransom, home invasion, armed robbery,
20 aggravated vehicular hijacking, aggravated discharge of a
21 firearm, or armed violence with a category I weapon or category
22 II weapon, the trial judge shall make a finding as to whether
23 the conduct leading to conviction for the offense resulted in
24 great bodily harm to a victim, and shall enter that finding and
25 the basis for that finding in the record.

26 (c-2) If the defendant is sentenced to prison, other than
27 when a sentence of natural life imprisonment or a sentence of
28 death is imposed, at the time the sentence is imposed the judge
29 shall state on the record in open court the approximate period
30 of time the defendant will serve in custody according to the
31 then current statutory rules and regulations for early release
32 found in Section 3-6-3 and other related provisions of this
33 Code. This statement is intended solely to inform the public,
34 has no legal effect on the defendant's actual release, and may

1 not be relied on by the defendant on appeal.

2 The judge's statement, to be given after pronouncing the
3 sentence, other than when the sentence is imposed for one of
4 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
5 shall include the following:

6 "The purpose of this statement is to inform the public of
7 the actual period of time this defendant is likely to spend in
8 prison as a result of this sentence. The actual period of
9 prison time served is determined by the statutes of Illinois as
10 applied to this sentence by the Illinois Department of
11 Corrections and the Illinois Prisoner Review Board. In this
12 case, assuming the defendant receives all of his or her good
13 conduct credit, the period of estimated actual custody is ...
14 years and ... months, less up to 180 days additional good
15 conduct credit for meritorious service. If the defendant,
16 because of his or her own misconduct or failure to comply with
17 the institutional regulations, does not receive those credits,
18 the actual time served in prison will be longer. The defendant
19 may also receive an additional one-half day good conduct credit
20 for each day of participation in vocational, industry,
21 substance abuse, and educational programs as provided for by
22 Illinois statute."

23 When the sentence is imposed for one of the offenses
24 enumerated in paragraph (a)(3) of Section 3-6-3, other than
25 when the sentence is imposed for one of the offenses enumerated
26 in paragraph (a)(2) of Section 3-6-3 committed on or after June
27 19, 1998, and other than when the sentence is imposed for
28 reckless homicide as defined in subsection (e) of Section 9-3
29 of the Criminal Code of 1961 if the offense was committed on or
30 after January 1, 1999, and other than when the sentence is
31 imposed for aggravated arson if the offense was committed on or
32 after July 27, 2001 (the effective date of Public Act 92-176),
33 the judge's statement, to be given after pronouncing the
34 sentence, shall include the following:

1 "The purpose of this statement is to inform the public of
2 the actual period of time this defendant is likely to spend in
3 prison as a result of this sentence. The actual period of
4 prison time served is determined by the statutes of Illinois as
5 applied to this sentence by the Illinois Department of
6 Corrections and the Illinois Prisoner Review Board. In this
7 case, assuming the defendant receives all of his or her good
8 conduct credit, the period of estimated actual custody is ...
9 years and ... months, less up to 90 days additional good
10 conduct credit for meritorious service. If the defendant,
11 because of his or her own misconduct or failure to comply with
12 the institutional regulations, does not receive those credits,
13 the actual time served in prison will be longer. The defendant
14 may also receive an additional one-half day good conduct credit
15 for each day of participation in vocational, industry,
16 substance abuse, and educational programs as provided for by
17 Illinois statute."

18 When the sentence is imposed for one of the offenses
19 enumerated in paragraph (a)(2) of Section 3-6-3, other than
20 first degree murder, and the offense was committed on or after
21 June 19, 1998, and when the sentence is imposed for reckless
22 homicide as defined in subsection (e) of Section 9-3 of the
23 Criminal Code of 1961 if the offense was committed on or after
24 January 1, 1999, and when the sentence is imposed for homicide
25 while ~~aggravated~~ driving under the influence of alcohol, other
26 drug or drugs, or intoxicating compound or compounds, or any
27 combination thereof as defined in Section 11-501.9
28 ~~subparagraph (F) of paragraph (1) of subsection (d) of Section~~
29 ~~11-501~~ of the Illinois Vehicle Code, and when the sentence is
30 imposed for aggravated arson if the offense was committed on or
31 after July 27, 2001 (the effective date of Public Act 92-176),
32 the judge's statement, to be given after pronouncing the
33 sentence, shall include the following:

34 "The purpose of this statement is to inform the public of

1 the actual period of time this defendant is likely to spend in
2 prison as a result of this sentence. The actual period of
3 prison time served is determined by the statutes of Illinois as
4 applied to this sentence by the Illinois Department of
5 Corrections and the Illinois Prisoner Review Board. In this
6 case, the defendant is entitled to no more than 4 1/2 days of
7 good conduct credit for each month of his or her sentence of
8 imprisonment. Therefore, this defendant will serve at least 85%
9 of his or her sentence. Assuming the defendant receives 4 1/2
10 days credit for each month of his or her sentence, the period
11 of estimated actual custody is ... years and ... months. If the
12 defendant, because of his or her own misconduct or failure to
13 comply with the institutional regulations receives lesser
14 credit, the actual time served in prison will be longer."

15 When a sentence of imprisonment is imposed for first degree
16 murder and the offense was committed on or after June 19, 1998,
17 the judge's statement, to be given after pronouncing the
18 sentence, shall include the following:

19 "The purpose of this statement is to inform the public of
20 the actual period of time this defendant is likely to spend in
21 prison as a result of this sentence. The actual period of
22 prison time served is determined by the statutes of Illinois as
23 applied to this sentence by the Illinois Department of
24 Corrections and the Illinois Prisoner Review Board. In this
25 case, the defendant is not entitled to good conduct credit.
26 Therefore, this defendant will serve 100% of his or her
27 sentence."

28 When the sentencing order recommends placement in a
29 substance abuse program for any offense that results in
30 incarceration in a Department of Corrections facility and the
31 crime was committed on or after September 1, 2003 (the
32 effective date of Public Act 93-354), the judge's statement, in
33 addition to any other judge's statement required under this
34 Section, to be given after pronouncing the sentence, shall

1 include the following:

2 "The purpose of this statement is to inform the public of
3 the actual period of time this defendant is likely to spend in
4 prison as a result of this sentence. The actual period of
5 prison time served is determined by the statutes of Illinois as
6 applied to this sentence by the Illinois Department of
7 Corrections and the Illinois Prisoner Review Board. In this
8 case, the defendant shall receive no good conduct credit under
9 clause (3) of subsection (a) of Section 3-6-3 until he or she
10 participates in and completes a substance abuse treatment
11 program or receives a waiver from the Director of Corrections
12 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

13 (d) When the defendant is committed to the Department of
14 Corrections, the State's Attorney shall and counsel for the
15 defendant may file a statement with the clerk of the court to
16 be transmitted to the department, agency or institution to
17 which the defendant is committed to furnish such department,
18 agency or institution with the facts and circumstances of the
19 offense for which the person was committed together with all
20 other factual information accessible to them in regard to the
21 person prior to his commitment relative to his habits,
22 associates, disposition and reputation and any other facts and
23 circumstances which may aid such department, agency or
24 institution during its custody of such person. The clerk shall
25 within 10 days after receiving any such statements transmit a
26 copy to such department, agency or institution and a copy to
27 the other party, provided, however, that this shall not be
28 cause for delay in conveying the person to the department,
29 agency or institution to which he has been committed.

30 (e) The clerk of the court shall transmit to the
31 department, agency or institution, if any, to which the
32 defendant is committed, the following:

33 (1) the sentence imposed;

34 (2) any statement by the court of the basis for

1 imposing the sentence;

2 (3) any presentence reports;

3 (3.5) any sex offender evaluations;

4 (3.6) any substance abuse treatment eligibility
5 screening and assessment of the defendant by an agent
6 designated by the State of Illinois to provide assessment
7 services for the Illinois courts;

8 (4) the number of days, if any, which the defendant has
9 been in custody and for which he is entitled to credit
10 against the sentence, which information shall be provided
11 to the clerk by the sheriff;

12 (4.1) any finding of great bodily harm made by the
13 court with respect to an offense enumerated in subsection
14 (c-1);

15 (5) all statements filed under subsection (d) of this
16 Section;

17 (6) any medical or mental health records or summaries
18 of the defendant;

19 (7) the municipality where the arrest of the offender
20 or the commission of the offense has occurred, where such
21 municipality has a population of more than 25,000 persons;

22 (8) all statements made and evidence offered under
23 paragraph (7) of subsection (a) of this Section; and

24 (9) all additional matters which the court directs the
25 clerk to transmit.

26 (Source: P.A. 93-213, eff. 7-18-03; 93-317, eff. 1-1-04;
27 93-354, eff. 9-1-03; 93-616, eff. 1-1-04; 94-156, eff. 7-8-05;
28 94-556, eff. 9-11-05; revised 8-19-05.)".